VILLAGE OF KEY BISCAYNE

Office of the Village Manager
MEMORANDUM

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

Village Manager
Genaro "Chip" Iglesias

DT: June 11, 2010

TO: Local Planning Agency

FR: Genaro "Chip" Iglesias, Village Manager

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

RECOMMENDATION

It is recommended that the Local Planning Agency recommend that the Village Council approve the attached ordinance with the exceptions as noted below. The Building, Zoning, and Planning Director has found that the proposed changes to the Zoning and Land Development Regulations are consistent with the Comprehensive Plan.

BACKGROUND

Attached is the ordinance that was recommended by the Zoning Ordinance Review Committee. As Council has previously voted not to consider any changes to the HR Hotel Resort District, those regulations have been removed from the attached ordinance.

Staff is recommending that the changes be recommended by ZORC be approved with the exception of those listed below:

1. Any change to the definitions. The recommended changes add clarity but are not necessary. Staff, architects, and residents have been using these definitions for the past ten (10) years. There is an understanding in the architectural community of how these terms are interpreted and applied. Several of the changes to the definitions moved regulatory language from the definitions to other sections. It is recommended these changes not be approved as relocating them back to the definitions results in a complete definition for each term.

2. The permitted uses in the C-1 Commercial District were amended to include "Hotel", the height limit was increased from 50 ft. to 100 ft., and the FAR limit was increased from .50 to 1.0. These changes affect the entry block, the Harbor Plaza Shopping Center (7-11) and The Galleria. As these properties do not have access to the Ocean, it is highly unlikely a hotel is feasible now or in the

foreseeable future. Presently, there is no proposal to develop a hotel on these properties.

3. The permitted uses in the Institutional District (church properties) were amended to include "places dedicated to historical or cultural functions". This was done to accommodate the possibility of moving a historic home on property that is owned by one of the churches. The home would be used for historical or cultural purposes. To date, there is no proposal or agreement by any church to accommodate this activity.

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

ROBERT VERNON, MAYOR

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Village Attorney

Attachment "A"

ZORC RECOMMENDED CHANGES[1]

ARTICLE I
TITLE, INTENT, PURPOSE, METHOD AND FEES

Sec. 30-1. Title.

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

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

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

Sec. 30-3. Method; Zoning Districts.

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

Single Family Districts	*Specialized Use Districts*

[1] Coding: Red strikethrough denotes deletions, Blue underline denotes additions, and Green underline or strikethrough denotes provisions moved to other sections.

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:~~

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

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

on the Official Zoning Map.

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

(~~d~~e) ***Interpretation of district boundaries.***

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

(2) In cases where a boundary line is given a position within a Street or ~~alley, Easement, canal, navigable or non-navigable Waterway, it~~other Right-of-Way, the boundary line shall be deemed to be in the center of the ~~Right-of-Way of the~~affected Street~~, alley, Easement,~~ or ~~Waterway~~Right-of-Way.

(3) If a site is crossed by a zoning district boundary and thus lies in more than one district, the district boundary shall be treated as if it were a Lot line separating the two separately zoned parcels.

(4) The boundary line for properties having a Lot line adjacent to the bay or a canal is the bulkhead. If a bulkhead does not exist, the property line shall be as shown on a survey that is signed and sealed by a registered surveyor in the State of Florida.

(5) The boundary line adjacent to the Atlantic Ocean is the erosion control line as determined in accordance with Florida Statutes.

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

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

[ALL AMENDMENTS TO AN EXISTING DEFINITION WILL REQUIRE A REFERENDUM]

ARTICLE II.
RULES OF CONSTRUCTION AND DEFINITIONS

Sec. 30-10. General ~~**rules of construction.**(a) For the purpose of these Zoning and Land Development Regulations, certain terms used herein are herewith defined~~**Rules of Construction.** The following general rules of construction shall apply to ~~the~~these Regulations~~ of this Code~~:

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

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

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

(d) The ~~word "~~words "shall~~" is~~", "must" or "will" are mandatory~~, the~~. The word ~~"~~"may~~"~~" is permissive and connotes discretion.
~~(e) The word "Building" or "Structure" includes any part thereof, and the word "Building" includes the word "Structure."~~

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

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

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

(~~j~~h) Words and terms not expressly defined ~~herein~~this Code shall be interpreted in ~~accord~~accordance with their normal first usage Webster's dictionary ~~meaning and customary usage~~meanings.
~~(k) The word "land" shall include water surface and land under water.~~

~~(l) Any Use which is lawfully existing as a Main Permitted Use, Conditional Use or Accessory Use at the time of the adoption of an ordinance that would render it a Prohibited Use, shall become a lawfully Nonconforming Use, subject to the limitations on such Uses contained in sections 3-29 and 3-30 of this Code.~~
~~(m) If a Use is specifically enumerated then it takes preference over general applications or interpretations of these Regulations. If a Use is specifically enumerated as a permitted Use in a district then to be considered as a permitted Use in another district, it must also be specifically listed.~~
~~(n) When this ordinance refers to a "Director," the referral shall automatically include the Director's "designee" unless specifically otherwise stated.~~
~~(o) Words of any gender shall be deemed and construed to include correlative words of the other gender.~~

~~(p)~~ i) The symbol > means "more than" and the symbol < means "less than". When these symbols are underlined, it means "or equal to."
~~(q) When a word is not defined in subsection 30-12 below, definitions in dictionaries shall apply.~~

(j) When a provision requires the approval of the Village Council, it shall be construed to require approval of the Village electors if such approval is required by the Charter.

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

Sec. 30-11. Definitions.

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

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

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

~~*Access Waterways.* A Waterway that is developed or constructed in conjunction with the development of real estate for the purpose of providing Access by water to Lots.~~ any road or Right-of-Way.

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

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Adult Entertainment Establishment. ~~An adult theater, an adult video/bookstore, an adult performance establishment, a commercial physical contact parlor, or~~A Use featuring nudity or catering to prurient or sexually evocative interests, including without limitation, an escort service operated for commercial or pecuniary gain, regardless of whether any such ~~Establishment~~Use is licensed under this ~~code. "Operated~~Code. Whether an Establishment is "operated for profit or for commercial or pecuniary gain~~"~~" shall be determined by reference to how the Establishment advertises itself or holds itself out to the general public or particular persons, and such determination shall not depend ~~upon~~on actual profit or loss. ~~An Establishment which has an Local Business Tax Receipt or an Establishment which advertises itself as a type of Adult Entertainment Establishment shall be presumed to be "operated for commercial or pecuniary gain".~~

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

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Antique. ~~An~~ A Building, Structure, or object having ~~special~~recognized value or significance because of its age, and belonging to, made in, or typical of ~~an earlier~~a particular 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~~featuring three or more Dwelling Units, where each Unit has separate cooking and sleeping facilities ~~in each Unit.~~

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Architectural Features. Design elements of a Building or Structure.

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

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

Automobile Repair~~, *Major*. General automobile repair, rebuilding or reconditioning of engines, motor vehicles or Trailers; collision service including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning. *Automobile Repair, Minor*. Simple automotive repair which can be accomplished entirely within an enclosed Structure, including but not limited to minor~~. Simple automotive or other motor vehicle maintenance and repair, including motor tune-up and repair, ~~upholstering,~~ tire ~~repair and replacement and muffler installation, but not including any operations listed under Automobile Repair, Major, or any other operation similar thereto.~~replacement and repair, muffler replacement, and similar ordinary and customary work.

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

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

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

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

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

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

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

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

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

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~~conducted at the Premises where ~~it~~the Sign is located, or which Sign is located ~~on~~at a site remote ~~site~~ from the location of the service or site referred to ~~by~~in the Sign Copy.

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

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Breezeway. A roofed open passage connecting two Structures.

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

Building. Any Structure, either temporary or permanent, having a roof, ~~and used or built~~intended for the shelter or enclosure of Persons, animals, chattels, or property of any kind~~. This definition shall include tents, Awnings, or vehicles situated in private property and serving in any way the function of a Building but is not intended to permit such Structures other than where expressly allowed under this Code.~~ ; excluding freestanding tents, Awnings, Gazebos or Cabanas and screened enclosures. The words "Building" or "Structure" include the totality and any part thereof. The word "Building" is encompassed within the definition of "Structure" such that a Building is itself a Structure and a Structure may or may not be a Building.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Communication Tower, *Cellular*. A Tower that is designed and used for the purpose of sending and receiving cellular telephone calls. Included in this definition is the actual Tower and any Accessory Building used to house necessary (and any adjacent Accessory Structure) used to house communication equipment. *Communication Tower, Monopole.* A Cellular Communication Tower that consists designed and used to send and receive cellular telephone calls, configured either as a monopole Tower consisting of a single pole set in a concrete foundation, and having the sending/receiving equipment mounted at the top of the pole. *Communication Tower, Three-Sided.* A self-supporting Cellular Communication Tower that has three sides, or as a three-sided Tower with no guy wires, and having the sending/receiving equipment mounted at various locations on the Tower.

Community Residential Home. Any Building or Buildings, section of a Building, or distinct part of a Building, residence, private home, or other place, whether operated for profit or not, which is licensed and/or monitored by the State A Building or portion thereof licensed to serve Residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families (or any successor agency) to provide a Family living environment (Family Services, or a Building or portion thereof licensed by the Agency for Health Care Administration which provides a living environment for between seven and fourteen unrelated Residents who operate as the functional equivalent of a family, including supervision and care necessary to meet the physical, emotional and social life needs of one or more Assigned Residents not related to the owner or administrator by blood or marriage). by supportive staff. Buildings or portions thereof serving six or fewer Residents in the same or substantially similar manner as expressed above and which otherwise meet the definition of a Community Residential Home shall be treated as a single-family residential Use.

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

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

Concurrency. The requirement under applicable State law administered by the Florida Department of Community Affairs that necessary public facilities and services to maintain the Village's adopted level of service standards, as defined in the Comprehensive Plan, are Available when the impacts of Development occur.

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

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

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

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

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

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

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

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

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

standard measure of land area, which shall be expressed as a number of units per acre unless otherwise specified in these Regulations.

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

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

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

~~*Development.* That meaning given in F.S. § 380.04.~~

Development. As defined in Section 380.04, Florida Statutes, as amended, or otherwise as specified by the Village Council or electors.

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

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

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

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

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

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

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

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

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

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

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

***

Floor Area. See Section 30-42.

Floor Area, Gross (Gross Floor Area). See Section 30.42.

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

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

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

***

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

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

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

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

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

***

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

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

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

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

(1) A Hotel Room (meaning a sleeping room within a Hotel);

(2) A living or sleeping room within a Dwelling used as a Hotel, having a separate entrance from outside the Dwelling other than the principal entrance of Building in which the Dwelling is located; and

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

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

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

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

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

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

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

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

Loft. An upper room or floor.

Lot. A parcel or tract of land designated and identified as a single Unit of areabuilding site, including platted lots, tracts or parcels of land as depicted in a Subdivision Plat officially recorded in the public records of Miami-Dade County, Florida. This definition includes the terms "site", "platted Lot", "Plot, ", "property", "land", "tract" or "parcel and" as well as land described by metes and bounds; and all such terms are synonymous and may be used interchangeably. The words "Lot" or "land" shall include surface water upon the land and land under water.

Lot Area. The total area within Lot Lines.

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

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

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

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

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

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

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

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

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

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

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

***

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

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

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

machines, skill ball, shuffle alleys, ~~mechanical grab machines,~~ electronic game machines or movie machines.

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

Motel. A one-story or two-story Building~~,~~ or part thereof~~,~~ in which sleeping rooms and/or living accommodations, with or without Cooking Facilities, are offered to the public~~, with no Cooking Facilities for Use by the occupants,~~ primarily on a short -term or transient basis, with Access to the individual Units from the exterior of the Building and Parking facilities, for Use of occupants near their quarters.

N/A. Not applicable.

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

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

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

***

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

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

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

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

***

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

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

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

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

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

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

***

Patio. See Terrace.

Person. Includes a natural person, association, or legal entity, including a partnership, corporation, limited liability company or a trust.

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

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

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

Plat. A map depicting the division or Subdivision of land into Lots, ~~Blocks, parcels, tracts, or other portions thereof,~~ however the same may be designated, prepared in accordance with the provisions of these Regulations and those of any applicable law

~~and/or local ordinance~~, which ~~may be designated to be~~are placed of ~~[on]~~ record in the office of the Clerk of the Circuit Court of Miami-Dade County.

***

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

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

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

***

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

***

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

Porch. ~~An unairconditioned~~ An un-airconditioned, open air, roofed Structure attached to a ~~residence~~Building at an entry to the Building, which must be at least 70 percent open on each exposed side. Only supporting columns may be visible above 42 inches from the finished Porch floor level. The definition includes the terms "Lanai", "Loggia" and "Portico".

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

***

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

Psychic Help ~~*Uses*~~***Use***. Establishments primarily engaged in providing advice or counseling to Persons based on readings of objects and/or extrasensory perceptions ~~for~~ either for guidance or entertainment~~. Including but not limited to~~, including fortune telling, astrology, handwriting analysis, phrenology, palm reading, tarot card reading, crystal readings, psychic counseling, numerology, and channeling. Psychic Help Uses

may not be licensed as secondary or Accessory Uses where not listed as a ~~permitted~~Permitted Use.

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

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

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

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

Right-of-Way. A strip of land dedicated or deeded to the perpetual use of the public including a Street or alley, an Easement, or a canal or other navigable or non-navigable Waterway.

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

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

~~*Rooming House or Boarding House.* See Lodging House.~~

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

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

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

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

~~Terraces or any covered projection thereof, excluding steps (also see Yard and Required Yard).~~ lines and the points at which a Structure may be located on the Lot.

Shed. A detached enclosed Structure used for storage.

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

Sidewalk. The paved layer of public frontage dedicated exclusively to pedestrian or bicycle activity.

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

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

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

***

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

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

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

Sign, Changing. A Sign such as an electronically or electrically controlled public service, time, temperature and date Sign, message center or readerboard, on which

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

***

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

***

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

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

***

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

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

***

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

***

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

***

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

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

***

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

***

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

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

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

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

Sign, ~~*Temporary Announcing.* A Sign Erected and maintained on vacant property or during construction to announce a future Use of the Premises. *Sign, Temporary*~~ ***Construction***. A Sign Erected and maintained by an architect, contractor, subcontractor, and/or materials business, upon property for which such individual and/or materials business is furnishing labor or material for new construction or major renovation.

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

***

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

***

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

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

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

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

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

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

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

***

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

***

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

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

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

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

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

***

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

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

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

***

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

***

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 heightA Structure having a height greater than its width, higher than its surroundings, and distinguished by its height if subordinate to a main Structure.

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

***

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

Trailer, House. (See Mobile Home.)

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

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

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

Unity of Title. A Writtenwritten agreement executed by and between a property owner and the Village of Key Biscayne, and recorded in the public records of Miami-Dade County, Florida, whereby the property owner agrees that the Lots and/or parcels of land constituting thea Building site shall be not be conveyed, mortgaged, and/or leased separate and apart from each other and that they shall be held together as one tract. The "Unity of Title" shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner, his/her and successors and assigns.

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

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

***

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

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

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

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

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

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

Vehicle, Commercial. Any vehicle designed or used~~,~~ or maintained primarily for the transportation of property and/or Persons for hire, including ~~but not limited to~~ tractors, ~~Trailers~~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~~for per vehicle top.

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

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

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

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

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

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

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

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

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

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

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

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

Yard, Required. The minimum Required Yard~~ or Setback required by~~, taking into account the Setback, FAR, Lot Coverage and landscaping requirements pursuant to these Regulations. Any Yard space supplied in excess of the minimum amount specified shall not be deemed to be a Required Yard.

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

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

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

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

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

ARTICLE III.
GENERAL PROVISIONS

Sec. 30-20. Scope of Regulations.

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

Sec. 30-21. Uncompleted Structures.

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

Sec. 30-22. Errors and violations.

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

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

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

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

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

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

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

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

Sec. 30-24. Street frontage required.

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

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

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

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

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~~Lots below minimum requirements.

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

Sec. 30-28. Storage on residential property.

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

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

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

(1) Such additional construction shall not encroach past the existing Building line further into the required Setback area ~~than the existing Building Line~~; and

(2) The property owner requesting such construction obtains ~~Written~~written approval from the ~~immediately~~owners of the Abutting ~~Property owner(s). The Building, Zoning and Planning~~Properties. The Director is authorized to require improvements to the property to insure that the proposed construction is consistent with the intent and purposes of the zoning district~~; however(3) The above applies only to the extension of One Story~~

~~Homes that are constructed below the Base Flood Elevation.~~,

Sec. 30-30. Nonconforming Structures and Uses.

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

(1) ***Nonconforming Use of a conforming Building.*** ~~.~~ The lawful Nonconforming Use of ~~[a]~~ Building may be continued~~, although such Use does not conform to the Regulations of the applicable zoning district, within which the Building is located. Any such Use shall only be changed to a permitted Use~~. A Nonconforming Use shall not be expanded and shall only be changed to a Permitted Use. If such Nonconforming Use is discontinued for a period of six months, it shall no longer be a lawful Nonconforming Use, and any further Use of said Building shall be in conformity with the Regulations of the applicable zoning district unless otherwise approved by the Village Council pursuant to the ~~Conditional Use Procedures.~~ conditional Use procedures specified in these Regulations.

(2) ***Conforming Use of a ~~nonconforming~~Nonconforming Building***. A lawful ~~nonconforming~~Nonconforming Building may be utilized for any Use ~~which~~that conforms to the Regulations of the applicable zoning district within which the Building is located, provided no structural Alterations~~, except~~ are made to the Buildingexcept those required by law,~~ are made to the Building.~~ ~~.~~

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

(4) ***Nonconforming Use of Land.*** The lawful Nonconforming Use of

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

(5) ***Nonconforming Structures.*** Lawful Nonconforming Structures other than Buildings are likewise permitted to remain, provided no structural Alterations other than those required by law are made, and further provided that the discontinued Use of such Structure or the Use of the Building in which it is necessary for a period of six months or more shall require ~~its~~the modification of the Nonconforming Structure, up to and including removal, so as to comply with the Regulations of the applicable zoning district.

(6) ***Maintenance and repairs.*** Necessary maintenance and repairs may be made to any ~~nonconforming~~Nonconforming Building or Structure, provided no structural Alterations are made, and further provided that such work in any 12-month period does not exceed 50 percent of the value of such Building or Structure as shown on the County tax assessment records or as established by an independent appraiser who is a designated member of any nationally recognized professional appraisers organization.

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

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

(9) ***Approvals to run with land.*** All approvals pursuant to the provisions of this section shall run with the land and are not personal to the owner of the land at the time of approval, unless limited by the Village Council.

Sec. 30-31. Duplex Subdivision.

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

(1) The applicant has filed a parallel application for Subdivision of the Lot and Structures into two separate single Family residential properties; and

(2) The Structure proposed for division is designed, sited and subdivided in a manner that will not have a detrimental impact on the adjoining property or character of the surrounding area.

(3) Should the Director deny the request, the applicant may file an appeal of an administrative decision.

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

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

Sec. 30-33. Maximum allowed Density.

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

(1) Easement areas located within the site are calculated in the area used for determining Density;

(2) Density from one site shall not be transferred to another site, unless specifically allowed in a particular context for an expressed purpose in these Regulations; and

(3) The maximum allowed Density on a site shall not exceed the limit as established in the zoning district Regulations, except as provided for in the ~~master plan~~Comprehensive Plan (Future Land Use Plan, page 15). In such cases, where the maximum Density may be exceeded, the repair or

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

Sec. 30-34. Building permits.

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

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

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

Sec. 30-36. Moving Buildings.

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

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

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

Sec. 30-38. Enforcement and penalties.

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

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

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

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

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

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.

[CHANGES MADE IN THIS SECTION WILL REQUIRE A REFERENDUM]

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

(a) Certain Definitions:

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

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

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

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

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

(1) Accessory water tanks or cooling Towers.

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

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

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

(5) Any floor space utilized for parking within an off-street Parking garage [within the governmental, institutional, office, commercial, hotel resort, or multi-Family residential districts??]. For single Family and Two-Family Structures, 50% of the floor area of the Parking garage is included in the FAR calculation. The ceiling shall be no higher than the Base Flood Elevation. The garage floor elevation shall be set at grade and the ceiling shall be no higher than 9 ft. above the floor. If the Parking garage is the Main Permitted Use, then the entire Floor Area of all Parking levels shall be included in the calculation of Floor Area Ratio.

(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 from the calculation of Floor Area Ratio. However, if the ceiling of a Structure located below BFE protrudes above BFE and the space is enclosed on more than two sides, 10 percent of the horizontal Floor Area of the space below BFE is included in the Floor Area for purposes of calculating Floor Area Ratio.

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

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

(11) The area comprising chases.

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

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

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

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

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

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

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

[CHANGES MADE IN THIS SECTION WILL REQUIRE A REFERENDUM]

Sec. 30-43. Lot Coverage Calculation.

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

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

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

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

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

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

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

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

[CHANGES MADE IN THIS SECTION WILL REQUIRE A REFERENDUM]

Sec. 30-44. Structure Height Calculation.

The Height of a Structure shall be calculated as follows:

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

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

ARTICLE IV.
ADMINISTRATION OF THE ZONING ORDINANCE

Sec. 30-60. General provisions.

All licenses, Development or building permits or other permits issued by any department, agency or official of the Village for the erection, alterationAlteration, 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 (1) ***Approvals in violation of chapter.*** Unless otherwise required by law, no license, approval or permit shall be issued by any department, agency or official of the Village for the Use of any Premisesland or Structure or the operation of any business, enterprise, occupation, trade, profession or activity which would involve or constitute a violation of these Zoning and Land Development Regulations.

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

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Sec. 30-61. Enforcement.

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

Sec. 30-62. Reserved.

Sec. 30-63. Variance procedures.

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

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

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

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

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

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

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

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

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

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

the original application.

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

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

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

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

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

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

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

Sec. 30-64. Supervisory Variances.

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

~~(1) The Building, Zoning and Planning~~ (1) The Director shall have the authority to waive up to two feet or ten percent, whichever is greater, of the required Setbacks, Lot Coverage, Pervious Area, or Parking for projects ~~which~~that have been completed or are under construction (see paragraphs (3) and (4) below). Applicants are restricted to current property owners.

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

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

(4) For projects that are under construction and ~~an~~where encroachment into the required Setback has occurred, the applicant shall provide a statement that the encroachment has resulted from an error during construction.

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

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

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

(1) The Written consent of all the owners of all adjacent or abutting Lots to the subject property, including Lots immediately across the Street from the subject property; and

(2) The Written consent of all utilities and/or Easement holders if the proposed work encroaches into any Easements.

(3) No other form of public notice is required.

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

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

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

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

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

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

Sec. 30-66. Regulatory Variances.

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

(1) ***Application forms.*** The ~~Building, Zoning, and Planning~~ Department shall have the responsibility of assisting applicants in the filing of applications for Regulatory Variances.

(2) ***Public notice and hearing requirements.*** The Village Clerk shall schedule a public hearing pursuant to the procedures set forth in ~~section~~Section 30-68. An application for a Regulatory Variance requires one public hearing before the Village Council.

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

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

(4) ***Modification of conditions.*** Should the applicant request to modify any

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

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

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

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

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
Requires Building, Zoning, and Planning Director approval prior to processing	Yes	Yes	No
Approval of Adjacent Property owner nearest to request	Yes	Yes	No
Approval of all Adjacent Property owners (petition)	No	Yes	No
Mailed notice to property owners within 300 ft. of property which is subject of the application	No	No	Yes
Notice in newspaper	No	Yes	Yes
Posting of property	No	No	Yes
Appeal to	Village Council	Village Council	Court

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

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

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

(c) Notice of the time and place of the public hearing describing the nature of the application and Street address of the property shall be published in a newspaper of

general circulation in the Village not less than ten days prior to the public hearing.

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

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

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

(g) Number of required public hearings:

~~TABLE INSET:~~

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

Sec. 30-69. Ex-parte communications.

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

(1) ***Communications between Village Council and public.*** All oral and Written communications with the public involving quasi-judicial action pending before the Village Council must take place at the public hearing. Outside of the public hearing, the Council is prohibited from discussing the merits of any matter on which action may be taken by the Council.

(2) ***Communications between Council and staff.*** Written and oral communications between Council members and staff shall be allowed.

(3) ***Written communications.*** In the event that a Council member receives a Written ex-parte communication, the Council member shall immediately submit the Written communication to the staff so that it can be placed in

the file and made a part of the record either before or during the public hearing prior to the Council voting on the application.

(4) ***Site visits.*** A Council member may make a site visit regarding a quasi-judicial matter pending before the Council, provided that the existence of the site visit is made part of the record prior to the Council taking final action on the application.

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

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

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

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

(2) The appeal shall be filed within 30 days of the date the administrative decision is made.

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

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

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

(1) A petition for change of text or zoning district may be submitted to the ~~Building, Zoning and Planning~~ Director by any of the following:

a. Village Council;

b. Village Manager;

c. Village Attorney; or

d. An owner of property in the Village.

(2) All petitions shall be on forms provided by the ~~Building, Zoning, and Planning~~ Director.

(3) A petition filed by a property owner that changes the boundaries of a zoning district or creates a new zoning district shall include documentation that a majority of the owners of the property in said district approve of the petition.

(4) A petition that results in the designation of a new zoning district shall include a minimum of one acre of land. A petition that expands the boundary of an existing zoning district has no minimum area.

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

(b) ***Review criteria.*** In order to approve a text amendment, or change of zoning district the Village Council must find that the petition is consistent with all of the following criteria. The applicant is required to provide a report at the time the petition is filed which includes documentation that the petition is consistent with each of the below criteria:

(1) The proposed amendment is consistent with the Comprehensive Plan;

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

(3) The resulting boundaries of a zoning district are logically drawn;

(4) The proposed change will enhance property values in the Village;

(5) The proposed change will enhance the quality of life in the Village; and

(6) There are substantial and compelling reasons why the proposed change is in the best interests of the Village.

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

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

Sec. 30-72. Conditional Use procedures.

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

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

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

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

(2) That the configuration and design of the site will facilitate That there will be adequate provision for safe traffic movement of, both vehicular and pedestrian traffic, both internal to the Use and uponin the adjacent roadwaysarea 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;

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

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

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

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

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

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

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

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

(d) In considering any application for conditional use approval, reasonable restrictions may be imposed by the Village Council in granting an (d) ***Conditions.*** The

Village Council may stipulate conditions and requirements in granting any application for a Conditional Use, when ~~such condition~~it is found by the Village Council to be necessary to further the purpose of the zoning district or compatibility with other property within the vicinity.

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

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

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

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

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

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

(k) ***Consideration of petitions after denial or withdrawal.*** When an application is denied by the Village Council or withdrawn after public notice has been provided, no other application that is substantially the same as the original application

shall be filed within one year from the date of denial or withdrawal. This prohibition may be waived by the Village Council by permitting the withdrawal or denial without prejudice.

Sec. 30-73. Administrative building moratoria.

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether existing ~~Village~~ zoning districts ~~applying to a portion of the area of Village of Key Biscayne~~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 ~~Clerk of the~~ Village ~~Council~~Clerk, whose duty it shall be to place the matter before the Village Council for consideration and review following a public hearing as soon as is reasonably practicable.

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

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

(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 ~~Commission~~Village Council, on its own motion or otherwise, may continue any moratorium for a longer period of time if reasonably necessary. This provision is

supplemental to subsection (g) hereof.

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

(h) Upon the submission of the Village Manager's report and recommendations to the Clerk of the Council, the Clerk shall call a public hearing thereon before the Council at the earliest practicable time, after reasonable notice by publication in a newspaper of general circulation in the Village~~ of Key Biscayne~~. After said public hearing the Council shall make its determination as to whether the zoning districts shall remain the same or shall be changed. Should the Council determine that the zoning districts shall remain the same, it shall immediately issue its order terminating the building moratorium. Should the Council determine that the applicable zoning districts or any regulations applicable within them should be changed, or new districts or regulations created therefor, it shall issue its order continuing the building moratorium and shall immediately take the actions required ~~elsewhere within the Village of Key Biscayne Code for~~to implement such changes~~. Provided~~; provided, however, that where zoning district boundary changes are involved the Village Council shall hear the matters directly without intervening administrative review.

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

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

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

(1) As soon as the Village Manager learns that a grand jury has indicted or that an information has been formally returned against a Village Council member charging said Council member with bribery, accepting unauthorized compensation, or other act of fraud in a zoning case relating to a particular parcel or parcels of real property, then the Village Manager shall immediately issue an administrative order identifying the real property in question and prohibiting the issuance of building permits for said property. Such order of moratorium shall remain in effect until the completion of the criminal judicial process and the determination of guilty or not guilty as to the Village Council member involved being reviewed by the highest judicial tribunal to consider the case. Should the Council

member be found not guilty, then the administrative order shall be deemed dissolved. Should the Village Council member be found guilty, then a motion to reconsider the zoning on the real property in question may properly be made by any Village Council member.

(2) If an order of moratorium is imposed on a parcel ~~or parcels~~ of ~~real~~ property pursuant to this subsection, and the owner ~~or owners~~ of such property ~~request~~requests the Village Council to reconsider the zoning on that property, then a motion to reconsider the said zoning may properly be made by any Village Council member. If the motion to reconsider is approved by the Village Council and the reconsideration of the zoning on the said property occurs, then the building moratorium shall end with the conclusion of the reconsideration process delineated below in subsection (3).

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

Sec. 30-74. Other building moratoria.

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

(b) Should the Council determine that a public hearing should be held as to

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

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

Sec. 30-75. Exceptions to the moratoria.

Notwithstanding the issuance of any moratorium order, the Village Manager may authorize the issuance of building permits for ~~nondeleterious~~non-deleterious items including, but not limited to, fences, repairs and like matters, where he determines that such permit will not affect the outcome of ~~the~~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 or Use changes, minimum square footage requirement changes, unusual and new Uses, modifications or elimination of conditions, restrictions or limitations within the affected area shall be acted upon by the Village Council or any Village agency, except as provided in subsection 30-73(h), or section 30-75, or unless otherwise specifically provided by the Village Council by ordinance with regard to a specific moratorium.

Sec. 30-77. Administrative zoning moratoria.

(a) Whenever it shall be made to appear to the Village Manager or Village Council that it is in the public interest to make a comprehensive determination as to whether the existing ~~Village master plan~~Comprehensive Plan as it applies to a portion of the area of the Village~~ of Key Biscayne~~ is outdated and of little or no use in formulating correct zoning patterns in relation thereto, or as to whether existing zoning districts are compatible with existing or proposed growth patterns and land Uses, the Village Manager shall immediately issue his administrative order delineating the area in question and prohibiting the consideration by any Village department, Council or agency of any

zoning amendment, modification, Variance, Conditional Use or other zoning change, in said area. However, applications for Conditional Uses not involving zoning changes but incorporating requests for Site Plan approval only may be considered and appropriate action taken thereon.

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

(c) Immediately upon issuance of any administrative order pursuant to subsection (a), the Village Manager shall notify the ~~Clerk of the~~ Village ~~Council~~Clerk whose duty it shall then be to place the matter before the Village Council for consideration and review following a public hearing as soon as is reasonably practicable. The ~~aforesaid clerk~~Village Clerk shall give reasonable notice by publication in a newspaper of general circulation in the Village ~~of Key Biscayne~~ of the public hearing which he has scheduled before the Village Council.

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

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

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

(g) Should the Village Manager be unable to report back to the Council within

the time prescribed by its moratorium order, upon timely request, by the Village Manager and after public hearing on the need therefor, the Council may reasonably extend the time limitations for the report and the moratorium if the Council finds such extension is reasonably necessary.

Sec. 30-78. Other zoning moratoria.

(a) Should any Person make ~~Written~~written application to the Village Manager for the issuance of an administrative order as provided by subsection 30-77(a), and the Village Manager refuses to issue such order, or fails to take action thereon within 30 days, such Person may make direct application ~~In Writing~~in writing to the Village Council for the issuance of a zoning moratorium order. Such application to the Council shall be filed with the Village Clerk~~ of the Village Council~~, whose duty it shall be to place the matter before the Village Council as soon as is reasonably practicable for the Council's determination as to whether a public hearing should be called thereon. The word "Person" as used in this subsection includes, but is not limited to, any individual, firm, corporation, or governmental entity, including the Village Council.

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

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

Sec. 30-79. Zoning in progress procedures.

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

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

Sec. 30-80. Site Plan review procedures.

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

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

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

(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.

(e) ***Time limit.*** The approval of a Site Plan shall automatically become null and void unless the appropriate Development order, as defined in F.S. § 163.3164, has

been issued within 12 months of the date the resolution was approved by the Village Council. A request for an extension of time, for a maximum of an additional 12 months, shall be considered by the Village Council. Notice requirements for such requests are the same as those that were used for the original application.

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

(1) Existing site characteristics map. A certified property survey extending to the center line of all adjacent Streets and alleys illustrating:

a. Existing natural features, including but not limited to lakes, trees and other vegetation and soils and topography unless deemed unnecessary by the ~~Village Building, Zoning, and Planning~~ Director.

b. Existing Buildings and other Structures, including Use, height, dimensions and Setbacks.

c. Existing utility lines and Easements.

d. Lot Lines.

(2) Site Development plan.

a. A scale drawing clearly illustrating proposed Buildings and other Structures, and any existing Buildings and Structures which are to be retained, including Use, height, dimensions and Setbacks.

b. Proposed off-street Parking spaces, driveways and sidewalks, including location, construction material, dimensions and Setbacks. This shall demonstrate compliance with Handicapped Accessibility Requirements and Chapter 52.11 of the South Florida Building Code.

c. Proposed fences and Walls, including location, construction material, dimensions, Setbacks and height.

d. Proposed utility lines and Easements.

e. Alignment of Miami-Dade County trafficways on property (if applicable).

f. Distance of existing Buildings on Adjacent Properties from property line.

g. Location of all existing and proposed fire hydrants and Siamese connections.

(3) Landscape plan.

a. A scale drawing clearly illustrating proposed trees, shrubs, grass and other vegetation, including location, height, size and type of plant by both common and botanical classifications.

b. Proposed berms, watercourses and other topographic features.

c. Method of irrigation.

d. Identification of Specimen Trees.

e. Site grading.

(4) Architectural plan.

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

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

c. Floor plans at a scale of one-eighth inch = one foot, zero inches or larger for all floors within any proposed ~~Structured Parking~~structured parking facility illustrating columns and all other obstructions to the movement of automobiles together with fully dimensioned driveway and Parking space layouts.

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

(5) Tabular summary.

a. Total gross project acreage and net buildable land area, taking into account Lot Coverage and Required Yards.

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

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

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

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

f. Number, size and ratio of off-street Parking spaces.

(6) Drainage plan. Unless the Village Engineer determines that major drainage improvements are not feasible due to existing improvements on the property, Site Plan submittals shall contain a separate paving and drainage sheet(s) containing the following:

a. Locations and size of all Buildings, roads, Parking Lots, driveways, green areas, and other significant pervious and impervious areas.

b. Existing elevations at the center of proposed Structures as well as the proposed finished floor elevations.

c. Sufficient elevations and calculations to show retention of storm water on the site in accordance with the South Florida Building Code (S.F.B.C.), Section 4611.1.

d. Exterior site elevations at the following locations:

1. Street crown at mid points of sides adjacent to Streets and at property lines extended (or at intervals of 100 feet for sites with greater than 200 feet frontage).

2. Where the adjacent edge of pavement intersects the property lines extended.

3. Existing and proposed elevations at the intersections and midpoints of all property lines and existing elevations ten feet outward from the midpoints of all ~~nonfrontage~~non-frontage lines.

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

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

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

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

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

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

(7) Pavement marking and traffic signage plan.

(8) Proof of Concurrency. All projects requiring Site Plan review, or Development of regional impact review are required to provide proof of Concurrency, pursuant to the Land Development Regulations, prior to the issuance of such Site Plan approval, or Development of regional impact Development order.

(9) Optional information. The following may be required, if deemed necessary by the ~~Building, Zoning, and Planning~~ Director:

a. A map reflecting the general character and relationship of surrounding properties.

b. Block elevation sketches of the proposed Development.

c. Intended progressive stages or phasing of Development.

d. At the time of Site Plan approval of any Development which includes Structured Parking, the ~~Building, Zoning, and Planning~~ Director may require designation of specifically delineated dimensions between columns and/or other Structures. The ~~Building, Zoning, and Planning~~ Director may further require that following construction of footings and establishment of batter-boards for column construction at grade level, that the Developer provide to the ~~Building, Zoning, and Planning~~ Director a sealed survey establishing compliance with the previously designated critical dimensions.

e. Demonstration that the proposed Development will not adversely affect any endangered or threatened plant or animal species, and will to the greatest extent possible, protect natural areas, native species, potable water well-fields, and dune systems, and will provide effective erosion control, and will protect against hazardous waste.

f. Site Plans shall to the greatest extent possible provide maximum clustering of Buildings and impervious areas.

g. Site Plans shall to the greatest extent possible provide bicycle and pedestrian paths to join residential Development with employment areas and commercial areas and shall combine landscaping to the greatest extent possible with that of adjoining properties.

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

(1) ***Natural environment.*** All proposed Development shall be designed in such a manner as to preserve, perpetuate and improve the existing natural character of the site. Existing trees and other landscape features shall, to the maximum extent possible, be preserved in their natural state; and additional landscape features shall be provided to enhance architectural features, to relate structural design to the site, ~~and~~ to conceal unattractive Uses, and to improve the tree canopy in the Village. In all instances the Village's tree protection, landscaping and all other applicable Regulations shall be fully complied with as minimum standards.

(2) ***Open space.*** Adequate landscaped open space shall be provided which meets the particular needs and demands of the proposed Development and all specific zoning district requirements. Legal methods assuring the continued preservation and maintenance of required open space shall be submitted to and approved by the Director and Village Attorney. The type and distribution of all open space shall be determined by the character, intensity and anticipated residential or User composition of the proposed Development.

a. Passive open spaces (those areas not planned for intensive activity) shall be arranged as to enhance internal spatial relationships between proposed Structures, to provide buffers between the project and adjacent ~~less intensive~~ Uses, to facilitate pedestrian movements within the Development, and to improve the overall visual quality of the site and neighboring area.

b. Active open spaces (those areas containing activities such as

playgrounds, tennis courts, swimming pools and other active recreational facilities) shall be located so as to permit easy Access to all residents or Users within a Development. Private recreational facilities and activities within specific projects shall, wherever possible, complement, rather than duplicate, nearby public recreational activities.

(3) ***Circulation and Parking.*** All circulation systems and Parking facilities within a proposed Development shall be designed and located in such a manner as to comply with the following:

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

b. Whenever possible in proposed residential Developments, living Units should be located on residential Streets or courts that are designed to discourage nonlocal through traffic.

c. Off-Street Parking areas shall be provided which adequately accommodate maximum vehicle storage demands for the proposed project and are located and designed in such a manner so as to conveniently serve the Uses to which they are accessory and not create incompatible visual relationships.

d. Safe and efficient Access to all areas of the proposed Development shall be provided for emergency and service vehicles, as required by Chapter 52.11 of the South Florida Building Code.

e. Sidewalks shall be provided as required by the Village Regulations.

f. Handicapped accessibility shall be provided as required by all applicable Regulations.

(4) ***Community services and utilities.*** All proposed Developments shall be designed and located in such a manner as to insure the adequate provision, Use and compatibility of necessary community services and utilities.

a. An adequate sanitary sewer collection system including all

necessary extensions and connections, shall be provided in accordance with Village standards for location and design. Where necessitated by the size of the Development and/or by the unavailability of Village treatment facilities, sanitary sewage treatment and disposal systems must be provided in accordance with Village and State standards and Regulations.

b. An efficient solid waste collection system, including the provisions of an adequate number of properly screened local receptacles in locations which afford maximum Use and collection convenience, shall be provided in accordance with all applicable Village standards.

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

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

a. Proposed Buildings and Structures shall be related harmoniously to the terrain, other Buildings and the surrounding neighborhood, and shall not create through their location, style, color or texture incompatible physical or visual relationships.

b. All Buildings and Structures shall be designed and oriented in a manner insuring maximum privacy of Residential Uses and related activities both on the site being developed and property adjacent thereto.

c. All permanent outdoor identification features which are intended to call attention to proposed projects and/or Structures shall be designed and located in such a manner as to be an integral part of the total project and/or structural design and shall not exceed a size and scale necessary for the recognition from vehicles moving along adjacent Streets at prescribed legal speeds.

(6) ***Level of service standards.*** For the purpose of the issuance of Development orders and permits, the Village has adopted level of service standards for public facilities and services which include roads, sanitary sewer, solid waste, drainage, potable water, schools, and parks and

recreation. All applicants are required to prove Concurrency pursuant to ~~the Land Development~~these Regulations.

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

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

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

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

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

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

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

(1) A list of the names and addresses of all property owners within the notification distance that is required and a letter certifying as to the

accuracy and completeness of the list by a Licensed Professional Engineer, Licensed Architect, Licensed Landscaped Architect, Licensed Real Estate Broker, Licensed Real Estate Appraiser, an attorney who is a member of the Florida Bar, a Licensed Land Surveyor, or a Land Planner who is a member of the American Institute of Certified Planners (AICP); and

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

Sec. 30-81. Delegation.

When a provision of these Regulations requires the Village Manager, the Director, a head of a department, or some other Village officer or employee to do some act or perform some duty, it shall be construed to authorize the Village Manager, the Director, head of a department or other Village officer or employee to designate, delegate and authorize subordinates to perform the required act or duty, unless the terms of the provision specify otherwise.

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

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

(a) *Purpose and Uses.*

~~TABLE INSET:~~

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

(b) *Development Regulations.*

TABLE INSET:

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

Pervious Area (% of Lot)				
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			

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

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

A ~~development~~Development may exceed the ~~base FAR but contain no more than~~Base FAR up to and limited by the maximum Base FAR as set forth above, subject to an administrative determination by the ~~Building, Zoning, and Planning~~ Director that the design meets one or more of the ~~below~~FAR bonus criteria~~.~~ identified below (FAR Bonus Criteria).

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

VR and PS Districts: Designs that do not receive both bonuses 3 and 11 shall be

assigned a minus .10.

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

FAR Bonus Criteria		Base FAR Increase
1.	Porch facing a Street which meets the following minimum standards: depth 4 ft and length 8 ft., Floor Area 120 sq. ft., elevation shall not exceed the Base Flood Elevation, steps setback 5 ft. from any property line.	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
2.	Open and unenclosed balconies located above the first finished floor	.00005 per sq. ft. of Floor Area to a maximum of .03 FAR increase
3.	~~Building located 15–20 ft~~Front yard setback bonus. ~~from a front of property line~~	~~.001 per Linear Foot of Frontage of a Wall that is located 15–20 ft. from a front property line (maximum~~ 006 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.~~.03)~~
4.	Garage or Carport containing two or more vehicles parked parallel with an exterior column separating each of the spaces	~~.03~~ 02
5.	Single Story Home	.03
6.	Combination One and Two Story Home with the second floor occupying less than 50 percent of the Floor Area of the first floor under roof	.10
7.	Entrances to Parking garages:	
	Interior Lot: placed in a location that does not face the Street.	~~.02~~ 03
	Corner Lot: entrance in a Side Yard	~~.02~~ 03
8.	All windows above the first floor facing an adjacent	.01 per side

	Building which are -five ft. above the finished floor	
	or if all Building Walls along the interior side of a property do not have windows	.03 per home side
9.	Side Yard Setback which:	
	a. Exceeds the required Yard	.00005 per each sq. ft. to a maximum of .03
	b. Has a minimum 15 ft. Side Yard Setback	.03
10.	~~Building located within 15--20 ft. of the rear Lot line~~ Rear yard setback bonus.	~~.001 per linear foot of a Wall located 15--20 ft. from the rear property line with a maximum of~~ 003 For every foot the Main Permitted Use is setback less than 20 ft. to a minimum of 15 ft.~~03~~
11.	VR and PS Districts: Structures that provide a ~~frontSetback~~front Setback of less than ~~25~~20 ft. which have a roof at least three ft. lower than the roof of the main Structure	.03
	IR and VE Districts: A portion of the Building ~~having~~having a length of at least ten ft. with a Front Yard ~~Setbackthat~~Setback that exceeds the required 25 ft. Setback	.0002 per sq. ft., maximum .03
12.	Reduction in Building Height.	.006 per foot or fraction thereof with a maximum of .03
13.	Reveals	.001 per sq. ft. with a .02 maximum
14.	Outside Moldings with a minimum width of 4 inches	.0001 per linear ft. with a .02 maximum

~~TABLE INSET:~~

(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~~ the Base Flood Elevation for Elevated Homes and the lowest floor for Non-Elevated Homes.

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

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

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

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

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

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

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

a. Chimneys~~,~~ 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.***

~~(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.*~~

(1) ***Zones.***

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

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

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

d. ***Exclusions.***

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

~~e. *Pools, pool Decks, Terraces.*~~ (2) Pools, pool Decks and Terraces which are located in compliance with the required Setbacks ~~for all Structures and are above the height restrictions established in subsection (2) are included in the Lot Coverage calculation.~~ shall not have an elevation higher than 2 ½ feet below BFE.

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

(e) ***Setback Regulations (minimum).***

~~TABLE INSET:~~

Yard	VR Village Residential	VE Village Estate	IR Island Residential ~~(Interior)~~	~~IR Island Residential (Waterfront)~~	PS Parkside Residential
Front	20 ft. *	25 ft.	25 ft.	~~25 ft.~~	20 ft. *
Rear	25 ft. *	25 ft. **	25 ft.	~~25 ft.~~	25 ft. *
Side, interior	One Story: new construction or one story addition: ~~New construction or addition:~~ 7.5 ft. One Story with a second floor addition: sum of the sideyards at the second floor shall be 25% of Lot Width.	~~Non-waterfront Lots: One Story: New~~ story new construction: 15 ft. or ~~addition: 7.5 ft.~~ ~~7.5 feet~~ Two Story new construction: 15 ft. One story additions may follow the existing	One Story: ~~New~~ new construction: 15 ft. or ~~addition: 7.5 ft.~~ ~~addition 7.5 ft.~~ Two Story new construction: 15 ft. One story additions may follow the existing	~~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~~

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

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

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

~~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.

(f) ***Permitted encroachments in Required Yards.***

(1) *Boat storage.*

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

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

conditions:

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

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

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

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

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

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

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

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

c. Pools. Swimming pools, shall be subject to the following Setback limitations and shall not exceed a height greater than that allowed for the Maximum Lot Elevation (see subsection (21) for swimming pool equipment setbacks):

~~TABLE INSET:~~

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 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.

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.

~~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.

[2]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.

[2] This section was adopted after the ZORC recommendation by the Village Council.

6. A boat lift shall not encroach into the required ten-foot side yard setbacks. Lift arms may extend beyond the 60 degree triangle, but shall not extend beyond the mooring piles.

7. The maximum height for a watercraft on a boat lift is such that the bottom of the watercraft may be no more than six inches above the Mean High Water Level.

8. A watercraft shall not exceed a maximum of 50 feet in length overall (LOA).

9. The maximum distance between mooring piles shall be 50 feet, and the maximum length of a dock running parallel to the property shall not exceed 50 feet.

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

~~(4)~~ **(5)** ***Driveway and Parking criteria.*** The following provisions shall apply to all single Family and Two-Family Developments:

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

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

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

d. ***Width.*** A maximum width of 24 feet is permitted for single Family and 36 feet for Two-Family Homes for a Lot with 75 feet or less of frontage at the property line. For all other Lots the width

of a driveway or combination of driveways at the point of intersection with the Right-of-Way shall not exceed the lesser of 36 feet or 32 percent of the Lot's frontage, including side Street frontage on Corner Lots.

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

(~~5~~6) ***Fences and Walls.***

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

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

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

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

4. *All Zones.* When a fence faces a Street in the Front or Side Zones, the following applies:

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

~~c.~~ b. ***Fence finish materials and restrictions.***

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

2. Wood fences shall have the structural side of the fence facing the interior of the property~~.~~, unless the Abutting owner consents otherwise in writing and the Director approves the structural side facing the Abutting owner.

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

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

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

5. Walls shall be painted on both sides.

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

(~~6~~7) ***Front Yard encroachments.***

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

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

side, five feet; and side facing a Street, ten feet.

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

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

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

(~~7~~8) ***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~~9) ***Hedges.*** No height or Setback limitations, except for the line-of-sight requirements contained in Chapter 21 of this Code.

(~~9~~10) ***Heating, ventilation, and air conditioning equipment Setback Regulations.*** The use and location of heating, ventilation~~,~~ and air conditioning compressors and equipment (HVAC)~~ and swimming pool equipment shall be limited as follows: HVAC compressors~~ are subject to the following Setback limitations:
~~TABLE INSET:~~

Yard	VR Village	VE Village	IR Island	IR Island	PS Parkside

	Residential	Estate	Residential (interior)	Residential (waterfront)	Residential
Front	~~10 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~20 ft.~~ Not permitted	~~15 ft.~~ Not permitted
Rear	10 ft.	20 ft.	20 ft.	20 ft.	20 ft.
Side, interior	4 ft.	4 ft.	4 ft.	10 ft.	4 ft.
Side, Street	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	~~10~~ ft. Not permitted	10 ft. Not permitted

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

(~~10~~11) ***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~~12) ***Pavers and walkways in Side and Rear Yards.*** ~~Pavers or other walkway material may be placed within the Side or Rear Yard so long as they do not materially affect the drainage characteristics of the area. The maximum width of the walkway is five feet but in no instance shall the Setback be less than four feet.~~ The maximum width shall be 3.5 ft with a minimum setback of 2 ½ feet.

(~~12~~13) ***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 a Side Yard ~~which~~that faces the steps, then the side of the steps shall be enclosed with a solid Wall or landscaping.

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

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

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

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

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

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

1. be used as a separate Dwelling Unit;

2. have separate Cooking Facilities; but

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

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

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

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

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

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

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

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

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

(~~17~~18) ***Roof, roof overhangs and rooftop uses.*** Principal Building roofs in all single Family districts shall adhere to the following Regulations:

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

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

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

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

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

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

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

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

~~(18) *Satellite dish*~~ (19) ***Telecommunication antennas***. These antennas shall comply with the following Regulations:

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

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

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

(19) ***Sheds.***

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

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

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

d. Size: 100 square feet.

e. Roof top Access: Prohibited.

f. Number: One.

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

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

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

Yard	VR Village Residential	VE Village Estate	IR Island Residential (interior)	IR Island Residential (waterfront)	PS Parkside Residential
Front	Not permitted **	Not permitted **	Not permitted **	Not permitted **	Not permitted **
Rear	2 ft.	2 ft. ~~0~~ 15 ft. if waterfront	2 ft.	2 ft. ~~0~~ 15 ft. if waterfront	2 ft.
Side, interior *	2 ft.	2 ft.	2 ft.	2 ft.	2 ft.
Side, Street *	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted	2 ft. if behind an opaque Wall, otherwise not permitted

* If the equipment is located in a Side Yard, landscaping shall be planted

which obscures views of said equipment. Additionally, where said equipment is located along any Street frontage it must be visually screened from the public Right-of-Way.

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

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

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

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

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

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

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

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

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

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

(26) ***Garages facing a Street:***

a. Lot width 80 ft. or less: No more than one (1) parking space in a garage shall face the Street with a minimum 20 ft. front Setback.

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

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

(28) Balcony Regulations.

a. Railings or walls shall be at least 50% open.
b. When facing a street, the minimum projection (depth) shall be 4 ft and minimum length 8 ft..

(29) Generator Regulations.

a. Temporary or portable generators are not permitted on any multi-family, condominium or townhome property.

b. Generators are not permitted in any yard that faces a Street.

c. Maximum decibel level for any generator is 60 db measured at the property line as measured with a calibrated Sound Level Meter.

d. All generators shall be setback a minimum of five (5) feet from any property line and must be completely screened on all sides by the use of walls, fences, landscaping, or other material which extends a minimum of 6" above the top of the generator.

e. The fuel source for all generators shall be limited to natural or propane gas.

i. If natural gas is used as the fuel source for the generator, the natural gas shall be provided through an underground line connected to a supply at or within the public right-of-way.
ii. Propane gas shall be stored in propane gas storage tank(s). Propane gas storage tank(s) shall be limited to 500 gallons or less if placed above ground and 1,000 gallons or less if buried

underground. Such tank(s) shall be installed in accordance with NFPA 58, as amended. When located in any yard facing a street, propane gas storage tank(s) shall only be permitted to be located below ground. When located above ground in the rear or interior side yard, such tank(s) shall be installed on structural slabs with the necessary wind uplift connections, screened from view in accordance with subsection c. above, and located a minimum of five feet from the adjacent Side Property Line.

f. Generators that were permitted prior to the adoption of this Section which produce a noise greater than 60 decibels measured at the property line shall not be permitted to operate from 11:00 p.m. to 7:00 a.m. on any day of the week. The Director may grant an exception to the time limitations if an occupant of the Building can provide a written statement from a physician that includes the medical condition which requires the residence to be air-conditioned.

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

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

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

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

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

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

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

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

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

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

h. The Building shall have central air conditioning;

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

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

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

(2) ***Community*** ~~*residential facilities.*~~ ***Residential Homes.***

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

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

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

d. The Building shall have central air conditioning.

(3) ***Day care facilities.***

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

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

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

d. A certificate of use, a Certificate of Occupancy, and a Local Business Tax Receipt shall be required. No such certificates shall be issued unless the Fire Department approves the issuance of said certificates.

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

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

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

(4) ***Home occupations.***

a. Signage on the property or on watercraft is prohibited.

b. No customer may be served in the home.

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

d. The business requires a Village Local Business Tax Receipt (Restricted).

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

(1) *Setbacks.*

~~TABLE INSET:~~

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

(2) *Development Regulations.*

~~TABLE INSET:~~

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

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

(1) ***Setbacks.***

~~TABLE INSET:~~

Regulation	Front (ft.)	Side, Interior (ft.)	Side, Facing Street (ft.)	Rear (ft.)
Principal Building	20 ft. for 50% of width of bldg. 10 ft. for remainder	0 ft. one side 10 ft. one side	15 ft.	one Story 15 ft. two Story 20 ft.
Porches, Porte-Cocheres, Carports/Canopies	10 ft.	10 ft.	10 ft.	10 ft.

Mechanical Equipment	35 ft.	2 ft.	2 ft.	2 ft.
Swimming Pool Pumps and Equipment	35 ft.	2 ft.	2 ft.	2 ft.
Pool Decks	35 ft.	2 ft.	2 ft.	2 ft.
Swimming Pools	35 ft.	5 ft.	10% of Lot width, minimum 15 ft.	5 ft.
Screen Enclosures	20 ft.	4 ft., 0 ft. for zero Lot line sides	10 ft.	5 ft.
Accessory Buildings	10 ft.	5 ft.	5 ft.	5 ft.

(2) *Development Regulations.*

~~TABLE INSET:~~

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

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

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

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

~~(3) When the Structure has a side Wall in excess of 35 feet in length, there~~

shall be a dense hedge along the property line adjacent to all portions of the Wall greater than 35 feet.

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

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

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

Floor Area Ratio Schedule for Single Family and Duplex*

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

TABLE INSET:

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

TABLE INSET:

Bonus Criteria		How to Calculate/Explanation	Maximum FAR
1.	Porch facing a	.00005 per sq. ft. of Floor Area on the	.03

	Street	Porch			
2.	Open and unenclosed Balconies located above the first finished floor	.00005 per sq. ft. of Floor Area on the Balcony			.03
3.	Building located 15--20 ft. from the front property line	.001 per linear ft. of frontage of a Wall that is located 15--20 ft. from the front property line			.03
4.	Building located within 15--20 ft. of the rear property line	.001 per linear ft. of frontage of a Wall that is located 15--20 ft. from the rear property line			.03
5.	Garage and Carport containing 2 or more vehicles parked parallel with an exterior column separating each of the spaces	Formula not required to determine this bonus			.03
6.	Single story home	Formula not required to determine this bonus			.03
7.	Combination One and Two Story Home	Second floor occupying less than 50% of the Floor Area of the first floor under roof			.10
8.	Entrances to Parking Garage	Interior Lot:	Placed in a location that does not face the Street	.02	
		Corner Lot:	Entrance from a Side Yard		.02
9.	Location of windows	Windows located above the first floor which face an adjacent Building. These windows must be at least 5 ft. above the finished floor. or Or		.01	
		No windows facing an interior side property line			.03
10.	Side Yard Setback	VR and PS Districts:	.00005 per sq. ft. that exceeds the required Yard	.03	
		VE and IR Districts:	15 ft. Setback		.03
11.	Front Building Walls	VR and PS Districts:	Structures that provide a Front Yard Setback of less than 25 ft. which have a roof at least 3 ft. lower than the roof of the main Building		.03
		VE and IR Districts:	A portion of the		.03

				~~Building having a length of at least 10 ft. with a Front Yard Setback that exceed the required 25 ft. (.0002 per sq. ft)~~	
~~12.~~	~~Reduction in Building heights~~	~~.006 per ft. below the maximum height permitted~~			~~.03~~

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

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

Sec. 30-101. Commercial districts.
C-1 Low Intensity Commercial District.
(a) *Purpose and Uses.*
TABLE INSET:

District Purpose	Main Permitted Uses*	Conditional Uses	Accessory Uses	Prohibited Uses
This district permits the Development of land in a low intensity manner and Uses that provide for the sale of goods and products that are needed throughout the entire Village. The permitted uses provide goods and services that primarily serve the residents of the Village.	Bar Commercial Uses 1. Offices: No individual or multiple business entity(ies) that are affiliated can occupy more than 10,000 sq. ft. Medical offices shall not exceed 10,000 sq. ft. 2. Retail uses: No individual or multiple business entity(s) shall occupy more than 10,000 sq. ft.*. except for stores whose principal product is food for consumption off the premises.	Service Station where the primary use on the site; Package Store	Any Use that is customarily associated with the Main Permitted Uses (See Sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See Sec. 30-113)
	3. Antique furniture that is at least 50 years old and the resale of			

	jewelry, art, and furs.* 4. Personal Service Uses 5. Restaurant (except on parcels that immediately abut a single Family district) **[THIS NEEDS A REFERENDUM]** 6. If a site is adjacent to a GU Government Use District a hotel is permitted with the following restrictions: 1. the ground floor is limited to retail, hotel and related accessory uses 2. maximum height is 50 ft. 3. maximum Floor Area Ratio is 1.0			

* If a Use is located immediately adjacent to a single Family district, then such Use shall be closed after 6:00 p.m. Monday through Saturday. On Sunday, the hours of business are limited to 9:00 a.m. through 1:00 p.m. These restrictions do not apply from Thanksgiving through December 31 where the hours of operation shall be the same as the majority of businesses in the Village.

(b) *Development Regulations.*

TABLE INSET:

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

More than 21,000 less than or = to 60,000 sq. ft.	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parkinggarage is sited at least 50 ft. from a public street.	35%
More than 60,000 but less than 100,000 sq. ft.	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parkinggarage is sited at least 50 ft. from a public street.	35%
100,000 sq. ft. or more	3 stories not to exceed 35 ft.	.20-.50 FAR may be increased to .55 by: a. .025 if subterranean parking garage receives the bonus and/or b. .025 if a parking garage is sited atleast 50 ft. from a public street.	35%

*Lots must be adjacent to one another and have at least one lot line in common.
**The FAR Design Bonus Schedule is a range based on a minimum and a maximum.

(c) *Setback Requirements.*

TABLE INSET:

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

(d) *Floor Area Ratio Design Bonus Schedule.*

TABLE INSET:

Design Criteria	How to Calculate Floor Area Ratio	Maximum

	Bonus	FAR Bonus
1.Elevation facing a street a. First floor: zoning Code requires 50%of elevation to be in windows. Bonus for additional windows. b. Steps in front of the storefront leading to the street c. Variation in vertical roof lines d. Variation in building wall plane e. Mansard or pitched roof facing a street f. Ornamental reveals, designs, or trellis g. Open balconies with 75% of each side having railings h. Porch or covered terrace (not a balcony)	a. 0.0005 per sq. ft. of window b. 0.0005 per linear ft. of stair width c. 0.0003 per linear ft. of roof line providing the length of the roof element is not less that 25% of the length for the largest roof d. 0.0003 per linear ft. of wall recess or projection measured from the corner ofthe wall joint to corner wall joint of each recess or projected element e. 0.0003 per linear ft. f. 0.002 per sq. ft. of decorative element or trellis area g. 0.0001 per sq. ft. of balcony floor area h. 0.00003 per sq. ft. of porch or terrace floor area	a. 0.05 b. 0.05 c. 0.08 d. 0.08 e. 0.08 f. 0.02 g. 0.02 h. 0.08
2. Courtyards and passageways to interior public spaces a. Interior courtyards b. Pedestrian Passageways to interior courtyards. No pedestrian passageway can be an interior courtyard.	.000007 per sq. ft. of courtyard floor area .000007 per sq. ft. of passageway floor area	a. 0.07 b. 0.07
3. Clustering of Building(s): this bonus is limited to projects that occur on 60,000 sq. ft. or more of land.	.05 per building, provided no individual building floor area is less than 35% of the largest building floor area. Buildings may be connected by roofed passageways.	.15
4. Sites adjacent to a park that provide an alternate route to Crandon Boulevard.	Route must provide two way traffic, commercial uses fronting on >50% of frontage, and if it connects to two streets then easement to the Village.	.10
5. Use a. Automobile repair* *All new auto repair uses shall agree to a recorded development restriction limiting the use of the property for auto repair for a minimum period of 10 years.	a. .03 per auto repair bay; and/or b. .02 per gasoline dispenser.	a. 0.09 b. 0.08

b. Service Station		
6. Parking Garages a. finished floor located below grade in a garage that contains >50% of the required parking spaces.	0.06 per foot or fraction thereof below Grade	0.20
7.At Grade Parking Lots	0.025 when access is provided to an adjacent parking lot	0.025
8. Landscaping: Providing more landscaping than is required a. Shade trees b. Native shrub c. Ground cover d. Planter boxes	a. 0.005 per shade tree b. 0.00005 per native shrub c. 0.00005 per sq. ft. of ground cover d. 0.00005	a. 0.05 b. 0.01 c. 0.01 d. 0.01

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

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

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

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

c. The overnight outdoor storage of vehicles is prohibited.

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

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

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

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

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

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

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

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

(8) If a roof deck contains parking spaces, it shall include an opaque 42-inch high parapet.
(9) Stores and offices shall provide a kneewall or bulkhead between 18 and 24 inches in height.
(10) Buildings which are on sites that include more than one lot shall provide a covered or uncovered passageway for every 200 linear feet of building facade.
(11) When stairs are provided from a building to a sidewalk, then the width of the stairs shall not be less than ten feet.
(12) *Parking Garages.*
a. The exterior elevations of accessory parking structures shall be designed the architecturally integrated with the exterior elevation.
b. Primary entrances to a parking structure shall not be located on the main facade of the principal use which the parking structure serves.
c. Openings in parking structures shall be screened so that no cars, headlights, or light fixtures are visible from surrounding uses. The size and proportions of openings shall be compatible with neighboring buildings. Glazing, perforated metal panels, applied surface elements, landscaping or combinations of these that are compatible with other materials of the facade shall be used to screen openings.
d. Driveway and pedestrian entries to parking structures shall be integrated with the ground level facade and shall include doors compatible with the design of the building.
(13) Buildings sited at the corner of two public streets shall provide a prominent corner entrance to street level shops or lobby space.
(14) Flat roofs shall not be visible from the street or from any floor that contains commercial or office uses. Pitched or mansard roofs shall not use tar, gravel, or asphalt shingles or other similar products as determined by the Building, Zoning, and Planning Director. Flat roofs of garages shall have a parapet or other opaque screening at least 36 inches high measured from the finished deck floor, to shield automobiles from public view at the street level.
(15) Asphalt or other similar products as determined by the Building, Zoning, and Planning Director shall not be on the surface of any floor that is considered as common space which contains commercial or office uses.
(16) Common space such as, but not limited to, courtyards, plazas, and pedestrian spaces shall be landscaped in accordance with the landscape standards for vehicular use areas (See section 30-238), or hardscaped for use as plazas, courtyards, and pedestrian passages integrated into the overall site layout and pedestrian circulation system. These spaces may include architectural trellis work over at least 30 percent of the top deck area, or treated with a combination of architectural and landscape elements to achieve a screening effect.
(17) In Shopping Centers, facades which front on a street shall contain storefronts that provide the main entrance into the place of business.
(18) All properties which have retail and/or office uses shall provide a bicycle rack or racks which contain one bicycle space per 5 retail and/or office spaces. This shall apply to all shopping centers which currently do not have bicycle racks as well as all existing new shopping centers.

Sec. 30-102. GU Government Use District.

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

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to permit land owned by a governmental entity to be used for any public purpose and certain limited private activities.	Governmental Buildings and facilities such as but not limited to schools, offices, post offices, parks, open space, community centers, recreational buildings, police and fire stations. Recreational activities as described in subsection (e).	None	Any Use customarily associated with the Main Permitted Use (See section 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See section 30-113)

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

Floor Area Ratio	Maximum Height	Lot Coverage	Lot Area	Setback
.75	35 ft.	35%	No minimum	5 ft., except where prior zoning district has a more liberal setback standard, which shall then apply

(d) *Approval Process.* Prior to establishing any new use of lands designated GU, the Village shall conduct the following public hearing(s):
(1) The Village Council shall conduct a public hearing to determine the Use(s) to which particular land purchased for Governmental Use may be put. The public hearing before the Village Council shall be held upon at least 15 days' notice of the time and place of such hearing published in a newspaper of general circulation in the Village. A courtesy notice containing general information as to the date, time, and place of the hearing, the property location and general nature of the proposed Use may be mailed to the property owners of record within a radius of 300 feet of the property on which the facility will be located, or such greater distance as the Village Manager may prescribe; provided, however, that failure to mail or receive such courtesy notice shall not affect any action or proceeding taken hereunder. To provide additional notice to the public, the property shall

be posted by a Sign or Signs indicating the action desired and the time and place of the public hearing thereon.
(2) At the public hearing the Village Council shall consider the Use(s) to which the land should be put, from the list of Uses in paragraph (b) above, considering among other factors a recommendation by the Village Manager (if any), the public need therefor and the existing land use pattern in the area. After considering these factors and any public comment, the Village Council shall adopt a resolution establishing the Use(s) for the property and take such action as is necessary to promote and protect the public health, safety and welfare of the citizens and residents of the Village.
(3) If the Use(s) approved by the Village Council include the construction of any Buildings or Structures on the property, the Village Council shall conduct another public hearing prior to the commencement of any construction activity. That public hearing shall be noticed in the same manner as the initial hearing described in subsection (d)(1) above. At the public hearing the Village Council shall review and evaluate a detailed Site Plan for the property, including all Buildings and improvements. At a minimum, the Site Plan shall contain a schedule of development criteria as set forth in subsection (c) above. In its review and approval, the Village Council shall apply the development regulations in subsection (c) above, except that the Village Council may waive the regulations or any part of the regulations in the interest of the public health, safety and welfare to provide the facilities to serve the public. After considering the Site Plan, recommendations of the Village Manager (if any) and public comment, the Village Council may by resolution take such action as it deems necessary or appropriate to promote and protect the public health, safety and welfare of the citizens and residents of the Village, including the approval of the Site Plan with any modifications thereto.
(e) *Permitted Recreational Activities.* Subject to the approval of a Beach Management Plan pursuant to subsection (f) and the supplementary regulations in subsection (g) the activities as described below shall be considered Main Permitted Uses on lands within the GU District which are seaward of the Erosion Control Line (as identified in Section 1.03 of the Village Charter) where such activities occur as ancillary and supportive of principal uses conducted on the upland contiguous privately owned property.
TABLE INSET:

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

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

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

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

(f) *Beach Management Plan Approval.* As a condition to the establishment, use and operation of any of the uses listed in subsection (e) above (except for Special Events which require a Special Event Permit), a plan for the proposed use and operation (Beach Management Plan) shall be submitted and approved by the Village. Except for the use of lounges, chairs and umbrellas, all Beach Management Plans shall require the approval of the Village Council after a public hearing noticed in accordance with section 30-68 of the Village Code. Beach Management Plans for the use of lounges, chairs and umbrellas shall be approved by the Village Manager. In the approval, the Village Manager or Village Council must find that the proposed activity(ies) comply with the requirements of this section and do not constitute a threat to public safety or welfare or constitute a danger or impediment to the public beach area. The Village Council or the Village Manager shall impose reasonable restrictions and conditions on the approval of the Beach Management Plan in order to preserve the health, safety and welfare of the Village residents. Violation of any provision of the approved Beach Management Plan automatically results in the revocation the Beach Management Plan approval. Nothing in this section shall be construed or interpreted to preclude individual Village residents from the legal use and enjoyment of the public beach area, or deny or impair the common law riparian rights of persons owning property which fronts the public beach area, or to require that individual residents (including specifically residents within any multifamily apartment building) obtain an approved Beach Management Plan for such activities.

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

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

b. If applicable, the number of proposed Vessels;

c. Proposed hours of operation;

d. Proposed safety and emergency plans;

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

f. Indemnity and Insurance (with Village as additional insured) in a form and amount approved by Village Attorney;
g. Proof of ownership of adjacent upland property or written authorization from upland property owner;
h. Application fee plus the annual inspection fee for the approved activity as established by resolution pursuant to section 30-4 of the Village Code;
i. Any additional information as reasonably required by the Village Manager.
(g) *Supplementary Regulations.* The recreational activities identified in subsection (e) shall be subject to the following restrictions:
(1) All activities shall be conducted as accessory to the adjacent contiguous upland property.
(2) It is prohibited to conduct the sale or rental of any equipment or food and beverage item associated with any permitted activity upon the public beach. The sale or rental shall only be conducted upon the associated upland private property.
(3) None of the permitted activities shall be conducted or maintained outside of the property area contained within the extension of the side lot lines of the upland property as they extend seaward toward the waterline.
(4) Activities adjacent to the upland hotel and private beach club properties shall be setback 20 feet from the adjacent property side lot lines as extended seaward toward the waterline.
(5) Activities adjacent to the upland multi-family residential properties shall be setback 100 feet from the adjacent property side lot lines as extended seaward toward the waterline.
(6) None of the permitted activities including the storage of any equipment shall be maintained or conducted within five feet of the dune as defined pursuant to Section 161.54, Florida Statutes, or within 15 feet of the waterline, unless overnight storage on the public beach is approved pursuant to a Beach Management Plan.
(7) Except for one corporate insignia, no larger than 20 square inches identifying the applicant or the upland property owner, commercial advertising shall be prohibited on all equipment associated with any approved activity.
(8) Except as approved pursuant to a Special Event Permit, hours of operation shall be limited to between sunup and sundown each day and all equipment, furniture, and temporary structures (if any) shall be removed from the public beach by sundown each day unless overnight storage on the public beach is approved pursuant to a Beach Management Plan. This limitation shall not apply to the use of chairs and lounges for viewing fireworks displays on Independence Day or New Year's Eve.
(9) The use of non-motorized vessels shall be prohibited without the onsite provision of one personal watercraft as defined in Section 327.02, Florida Statutes, maintained in good working condition and available at all times for emergency rescue purposes. The personal watercraft shall have a four stroke engine or best available technology, be equipped with an operational marine radio or wireless phone, and shall satisfy all U.S. Coast Guard safety requirements.
(10) Except for an unenclosed motorized all terrain vehicle approved pursuant to a Beach Management Plan, it is prohibited to use or operate or to allow another to use or operate upon, or along the public beach, or upon any beach or shoreline or waters adjacent thereto, any motorized vehicle. The private use of an all terrain vehicle must be

limited in use to the loading and unloading of equipment permitted under an approved Beach Management Plan. This prohibition shall not apply to any municipal, county or state vehicle, or to any vehicle or equipment authorized by the Village to be used or operated for a public purpose.

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

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

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

Sec. 30-103. Hotel Resort District.

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is designed to promote the Development of ocean resort Hotels and multiple Family residences.	Hotel Apartment Building	None	Any Use that is customarily associated with the Main Permitted Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use (See sec. 30-113)

(b) *Development Regulations.*

TABLE INSET:

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

TABLE INSET:

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

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Sec. 30-104. Institutional District.

(a) *Purpose and Uses.*

TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district is intended to permit ~~uses~~and regulate Uses that provide a public or semi-public service.	Places of worship. **[THIS NEEDS A REFERENDUM]** Places dedicated	Community Residential ~~Facilities~~ Homes	Any Use that is customarily associated with the Main Permitted Use Day Care Facilities	Any Use not listed as a Main Permitted Use, Conditional Use, or Accessory Use. (See sec. 30-113 for

	to historical or cultural functions. Village Recreational Facilities		Meeting rooms Schools (See sec. 30-111)	other prohibited Uses)

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

Sec. 30-105. Multiple Family districts.

(a) Purpose and Uses.

TABLE INSET:

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

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

(b) Development Regulations.

TABLE INSET:

District	Maximum Density (Units per net acre)	Maximum Height	Floor Area Ratio	Lot Coverage
RM-10	10	35 ft.	.30	.35

Low Density					
RM-16 Medium Density	16	50 ft.	1 Story .30	3 Story .75	.30
			2 Story .50	4 Story+ .80	
RM-30 High Density	30	150 ft.	.40		.40
			If oceanfront/bayfront Buildings provide a 7.5 ft. dedicated Easement on each side of the property, which is improved with a hard paved surface from the Street to the beach, then the below FAR's may be used:		
			1 Story .40	6 Story 1.40	
			2 Story .60	7 Story 1.60	
			3 Story .80	8 Story 1.80	
			4 Story 1.00	9+ Story 2.00	
			5 Story 1.20		
PUD-1 Ocean Club	*	*	*		*
PUD-2 Grand Bay	*	*	*		*
PUD-3 Key Colony	*	*	*		*

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

(c) Setback Regulations.

TABLE INSET:

District	Distance Between	Front	Side	Side Facing a Street	Rear

	Bldgs.				
RM-10 Low Density	15 ft.	25 ft.	15 ft. minimum 50 ft. maximum the sum of the Side Yards must be >= 25% of Lot width	25 ft. 50 ft. maximum the sum of the Side Yards must be >= 25% of Lot width	25 ft.
RM-16 Medium Density	30 ft.	25 ft.	20 ft.	20 ft.	25 ft.
RM-30 High Density	50 ft.	25 ft. + 5 ft. per floor above the first floor but not to exceed 50 ft.	25 ft. minimum (however no portion of Building may extend beyond a "building envelope" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each, * see sketch below).	25 ft. minimum (however no portion of Building may extend beyond a "building envelope" formed by a prism the base of which is formed by the Lot boundaries and whose height is defined by two base angles of 63 degrees each, * see sketch below).	25 ft. + 5 ft. per floor above the first floor but not to exceed 75 ft.
PUD-1 Ocean Club	*	*	*	*	*
PUD-2 Grand Bay	*	*	*	*	*
PUD-3 Key Colony	*	*	*	*	*

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

GRAPHIC LINK:**Click here for graphic**

(d) If a Building is damaged by a natural disaster or other casualty, the application of the above Development Regulations shall not preclude the repair or reconstruction of any

Building or portion thereof; however, the repair and reconstruction work shall only occur within the original building envelope and with the same or fewer number of Units than existed prior to the natural disaster or other casualty.
(e) Performance standards (items apply to Uses in the RM-10 District). Perimeter Walls or fences that face a Street shall be set back two feet from the Lot line.

Sec. 30-106. Office District.

O-1 Low Intensity Office District.

(a) Purpose and Uses.
TABLE INSET:

District Purpose	Main Permitted Uses	Conditional Uses	Accessory Uses	Prohibited Uses
This district permits the Development of land in a low intensity manner and Buildings which are designed to be compatible with adjacent Residential Uses.	Office	None	Any Use that is customarily associated with the Main Permitted Uses (See sec. 30-111)	Any Use not listed as a Main Permitted Use, Conditional Use or Accessory Use.(See sec. 30-113)

(b) Development Regulations.
TABLE INSET:

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

(c) Performance standards.
(1) Walls facing a Street shall include a minimum of 50 percent of the surface in windows and doors.
(2) Walls facing residentially zoned property shall not have windows; however the design of the Wall shall include architectural treatments that add visual interest such as

scoring, caps, columns, reveals, and similar architectural treatments. The design shall be approved by the Building, Zoning, and Planning Director.
(3) For properties that front on Crandon Boulevard, the performance standards of the C-1 Low Intensity Commercial District, subsection 30-101(e) shall apply.
(d) Burglar alarm. Shall not face residentially zoned property.
(e) Buffering and screening. A decorative, opaque six-foot CBS Wall shall be placed on any property line that is adjacent to a residential district. There shall be a five-foot Setback from the Wall. This area shall be landscaped with dense materials. The design of the Wall and the landscaping shall be approved by the Building, Zoning, and Planning Director. The Director shall determine if the Wall and landscaping provides an adequate buffer and screen between the office Uses and the Adjacent Properties.
(f) Perimeter Walls and fences that face a Street shall be set back two feet from the Lot line.

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

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

(b) Development Regulations.
TABLE INSET:

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

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

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

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

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

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

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

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

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

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

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

(8) Construction or subsequent operation of any new or expanded marina shall not destroy or degrade hammocks, pinelands, salt marshes, mangrove protection areas, seagrass, hard bottom communities, or habitats used by endangered or threatened species, unless approved by the appropriate regulatory agencies.

In making the above determinations, the Building, Zoning, and Planning Director may require the applicant to provide documentation and studies supporting such findings. An application for Site Plan review shall address each of the above criteria.

Sec. 30-108. PROS Public Recreation and Open Space District.

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

TABLE INSET:

District Purpose	Main	Conditional	Accessory Uses	Prohibited Uses

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

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

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

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

Sec. 30-109. Supplemental Setback Regulations.

General provisions:

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

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

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

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

(a) *Awnings.*

(1) *Commercial and Office Districts.* Awnings facing a Right-of-Way must maintain a Setback of at least 18 inches from the edge of pavement, and are subject to the approval of the Building, Zoning, and Planning Director. The decision shall be based on the height of the Awning, design, and relationship to the Building, sidewalk and intended Use of the space beneath the Awning.
(2) *All other districts except Single Family and PS Parkside Residential.* Awnings shall not project closer than three feet from any Lot line or have a total projection that exceeds 7.5 feet.
(b) *Canopies.* A Canopy shall be permitted to extend from an entrance door toward the Street side of any Building. The Canopy may extend to within 18 inches of the edge of pavement. Such canopies shall not exceed 15 feet in height and 12 feet in width or be screened or enclosed in any manner and shall provide an unobstructed, clear space between the grade and the bottom of the Canopy valance of at least seven feet. The location of vertical supports for the Canopy shall be approved by the Engineering Division.
(c) *Carports.* Not permitted.
(d) *Decks and Screen Enclosures (whether or not associated with a pool) Setbacks.*
TABLE INSET:

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

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

(f) *Fences and Walls.*
(1) *Generally.* For purposes of regulating perimeter fences and Walls, there is hereby established three zones. The "Front Zone" being the area between any Building and the adjacent Street(s), and the "Rear Zone" being the area from the back of the Front Zone to the rear property line.
(2) *Maximum height.*
a. *Front Zone.* Except for arches, columns, gates and other ornamental entry features which may extend to eight feet in height, the height between any Building and adjacent Street(s) shall be limited to six feet measured from the crown of the road.
b. *Rear Zone.* Six feet from the average grade of the Lot or to the allowable height of a permitted Wall on the contiguous Lot. The height, when measured from the grade of the contiguous Lot is further limited to eight feet, except by mutual consent of the contiguous Lot owners, the height may extend to four and one-half feet above BFE. For fences associated with tennis courts and other court games the maximum height is set forth in subsection (p) below.
c. *Arches.* May go up to nine and one-half feet in the Side Yard only.
(f) *Fences and Walls.*
(1) *Generally.* For purposes of regulating perimeter fences and Walls, there is hereby established three zones. The "Front Zone" being the area between any Building and the

adjacent Street(s), and the "Rear Zone" being the area from the back of the Front Zone to the rear property line.

(2) *Maximum height.*

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

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

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

(3) *Finish.*

a. *Front Zone.* All Walls ~~between any Building and the adjacent Street(s) must~~ be finished on all side(s). Masonry Walls ~~must~~ shall be stuccoed and painted except where adjacent and contiguous to an existing Wall or fence. The owner shall provide documentation to the Director that a good faith effort was made to obtain the adjacent owner's approval to stucco or paint the fence on the adjacent property. ~~and w~~ Wood fences must have no exposed nail points. ~~and wood fences must have no exposed nail points.~~

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

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

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

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

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

f. Walls shall be painted on both sides.

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

(4) *Corner Line of sight triangle on private property.* At a Street corner, the maximum height of a Wall, fence, or landscaping is 2.5 feet measured 15 feet along the intersection of property lines. Landscaping in this triangle is limited to shrubs.
(g) *Hedges.* No height limit except with regard to corner visibility where Regulations listed in subsection (f)(3) above.
(h) *Lightpoles.* 15 feet.
(i) *Marine Structures.* As set forth in section 30-100(f)(3).
(j) *Mechanical equipment.* Air conditioning, water pumps, and similar equipment shall be permitted in a Required Yard subject to the following:
(1) Not located in any Yard facing a Street.
(2) Provide a minimum five-foot Setback to the Lot line.
(3) Shall provide a solid acoustical screen at least one foot above the top of the air conditioner compressor and along the sides. Perimeter Walls may be used as the acoustical screen where the height of the Wall extends at least one foot above the equipment.
(4) If located on a roof, the equipment shall be screened from view in a manner that a Person standing on the sidewalk opposite the site cannot view the equipment.
(k) *Parking facilities, at grade Lots and garages.*
(1) At-grade Parking Lots with six or more spaces.
a. Required Setbacks:
TABLE INSET:

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

b. Landscaping shall be provided for as set forth in Article IX.
c. At-grade Parking Lots, when an Accessory Use and located under a Building, shall comply with the Setbacks as set forth for the Main Permitted Use. At-grade Lots which are not under a Building shall comply with the Setbacks listed in subparagraph (1)a. above.
(2) At-grade Parking Lots with fewer than six spaces. These Lots shall provide a five-foot Setback to any property line and include a car stop per Parking space. The Setback area shall be landscaped. Terminal islands are not required.
(3) Parking Garage, attached or detached to a Building, shall have the same Setbacks as the Main Permitted Use.
(l) *Projections.* Every part of a Required Yard shall be open to the sky, except as provided for in these Regulations. The following may project into a Required Yard for a distance not to exceed 25 percent of the Required Yard up to a maximum projection of six feet, unless provided for below:
TABLE INSET:

(1) Air conditioning Units, window and Wall	(6) Cornices

(2) Belt courses	(7) Porches, platforms, steps, Terraces, Decks, and similar Uses
(3) Balconies: the PUD, HR, and RM-30 districts where they may project 10 ft. from a Wall but not closer than 20 ft. to a side or rear Lot line and 25 ft. to a front Lot line.	(8) Window sills
(4) Bay windows	(9) Walkways
(5) Chimneys	(10) Any other similar work as determined by the Building, Zoning, and Planning Director

(m) *Shed Regulations.*
TABLE INSET:

(1) Not permitted in any Yard that faces a Street.	(4) Maximum size: 150 sq. ft.
(2) Rear and Side Yard Setback: 5 ft.	(5) Maximum height: 7.5 ft.
(3) Maximum of one allowed per property.	

(n) *Solar heating panels.* Shall be visually screened from the adjacent Rights-of-Way, or set into the roof so that the solar panel is flush with the upper roof surface.
(o) *Swimming pool, hot tubs, spas or similar Use.* Setbacks measured to water's edge. (see subsection (d) above for Setbacks for Decks and Screen Enclosures):
TABLE INSET:

(1) Not permitted in the Front Yard (except in the PC District, where the Setback shall be 35 feet).	(4) Rear Yard: 15 ft.
(2) Side Yard facing a Street: 15 ft. except in the PUD, HR, and RM-30 districts where the Setback shall be 20 ft.	(5) Equipment Setback: 5 ft.
(3) Side Yard, interior: 10 ft. except in the PUD, HR, and RM-30 districts where the Setback shall be 15 ft.	(6) Swimming pool (depth of at least 2 ft.) shall be surrounded by a fence with a self-closing/locking gate - fence and gate minimum 48 inches high with no more than four inches between fence posts. *

* Modifications to the fence, gate or latch: The Building Official may make modifications in individual cases upon a showing of good cause with respect to the height, nature or location of the fence, Wall, gate or latch or the necessity thereof, provided the protection as shown hereunder is not reduced thereby. The Division may permit other protective devices or Structures so long as the degree of protection afforded

by the substitute device or Structure is not less than the protection afforded by the Wall, fence, gate and latch described in division (o)(6) above.

(p) *Tennis courts and similar court games.* The following Regulations shall apply for fences, lightpoles or other Accessory Structures associated with court games in all districts.

TABLE INSET:

(1) Front Yard - Not permitted (except in the PC District, where the Setback shall be ten feet).	(4) All chain link fences shall be coated with green or black materials.
(2) Required side and required Rear Yard - maximum height of fences shall be ten feet and the fences shall be set back at least 7.5 ft. from the interior side or rear property line. When the fence faces a Street, the maximum height shall be ten feet and the fence shall be set back at least 15 ft. from the property line.	(5) When fences are located within 7.5 ft. of a Lot line, they shall be substantially screened from view from Adjacent Properties, public Rights-of-Way, and Waterways by landscape materials.
(3) Accessory lighting fixtures, when customarily associated with the Use of court games, shall be Erected so as to direct light only on the Premises on which they are located. The maximum height of light fixtures shall not exceed ten feet when located in a Required Yard; otherwise, the maximum height shall not exceed 20 ft. Light is permitted to be cast on any public Right-of-Way.	(6) Any play surface, whether paved or unpaved, when associated with said court games, shall have the following minimum Required Yards: front - not permitted, interior side - 7.5 ft., any side facing on a Street - 15 ft., rear - 7.5 ft.

Sec. 30-111. Accessory Use Regulations.

(a) *General provisions.* Accessory Uses shall comply with the following general provisions:

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

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

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

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

a. The Use complies with items (1) and (2) above;

b. The Use is consistent with the purpose of the Zoning District in which it is located;

c. That the necessary safeguards will be provided for the protection of surrounding property, Persons and neighborhood values;

d. That the public health, safety and general welfare of the community will not be materially and adversely affected; and

e. It is consistent with the master plan.

Appeal of the Building, Zoning, and Planning Director's decision pertaining to any finding shall be to the Village Council as an appeal of an administrative decision.

(b) *Accessory Uses in the Single Family and PS Parkside Residential District.* See section 30-100.

(c) *Accessory Uses in the Commercial District.*

(1) The storage of supplies or merchandise that are associated with the Main Permitted Use.

(2) The assembly of prefabricated products that are sold or used on the Premises.

(d) *Accessory Uses in the GU Government Use District.* See subsection (a) above.

(e) *Accessory Uses in the HR Hotel Resort District.*

(1) Retail Uses sized to serve the needs of Hotel guests.

(2) Bars, restaurants, lounges, and recreational facilities sized to serve the needs of Hotel guests and residents of the island.

(f) *Accessory Uses in PUD Planned Unit Development Districts.* Private Clubs (membership to the Private Club may be open to the general public), restaurants, office, Retail, recreational facilities, and similar Uses, provided such Uses have no direct Access to the exterior of the Building and no exterior signage.

(g) *Accessory Uses in the Institutional District.* Schools, cafeterias, chapels, meeting rooms, day care facilities, and special events.

(h) *Accessory Uses in RM Multiple Family Districts.* Recreation facilities and Private Clubs (provided they are for the exclusive Use of residents and owners of the Development and their guests, and are not open for general membership), restaurants, office, Retail and similar Uses, provided such Uses have no direct Access to the exterior of the Building and no exterior signage.

(i) *Accessory Uses in the Office District.* The storage of supplies that are associated with the Main Permitted Use; Retail Uses directly serving the office Uses they are associated with on the first occupiable floor of the Building only and not to exceed 50 percent of the first floor area, exterior signage or exterior entrances directly into the Retail Uses prohibited.

(j) *Accessory Uses in the PC Private Club District.* Shall include, but not be limited to the following: club houses, marinas, dock master's office, social halls, meeting rooms, Bars, dining rooms, card rooms, tennis courts, swimming pools, restaurants, Parking facilities, docks, fixed or floating, breakwaters, boat Trailers, trailered boat storage, boat ramp, outdoor dining, Gazebos, children's play area, sailing school, tennis school, summer camp, exercise facilities, outdoor grill, fish cleaning tables, members' store, mooring piles/buoys, a temporary overnight facility serving the needs of the club and those that remain on their boats overnight and similar recreational facilities, maintenance sheds, temporary Tents, marine fuel storage and sales, minor marine repairs, small boat crane/hoist, marine pump-out station, small sailboat rack storage and security entrance gate and Building.

(k) *Accessory Uses in the PROS Public Recreation and Open Space District.* See subsection (a) above.

(l) *Uses in districts not listed above.* Review criteria listed in subsection (a) above shall apply.

If a Use is not listed above, it may be permitted if the Building, Zoning, and Planning Director finds it is consistent with the criteria listed in subsection (a) above.

Sec 30-112. Supplemental Use Regulations

(a) *Alcoholic beverages.* The Village shall use the Miami-Dade County Ordinance for purposes of regulating the sale of alcoholic beverages, except that package stores shall be permitted as a conditional use in the C-1 Low Intensity Commercial district as set forth in Section 30-101; however, in no instance shall alcoholic beverages be offered for sale for consumption on the Premises, except in bars, as incidental to restaurants, within 500 feet of a place of worship, a school or from a parcel immediately adjacent to a single Family district. The distance measurement shall be a straight line measured from the property line where the establishment is located to the nearest point of the property line of the school or place of worship. Grocery stores shall be limited to the sale of beer and wine only for consumption off premises. No establishment, except for Hotel room service, shall offer alcoholic beverages for consumption on or off the Premises between 2:00 a.m. and 7:00 a.m. on any day of the week, except as permitted by an extended hours license granted pursuant to the Conditional Use procedures set forth in section 30-72. However, beer and wine may be sold, for off premises consumption only, 24 hours. The Village Council may grant an extended hours license, to allow an establishment to offer alcoholic beverages for consumption on or off the Premises as late as 4:50 a.m. In evaluating such requests, the Village Council shall use the following criteria:

(1) The number of off-street Parking spaces;

(2) The amount and degree of law enforcement activities; and

(3) The impact on Adjacent Properties in terms of noise and traffic.

The Village Council may require, as a condition of granting an extended hours license, conditions to mitigate the adverse impacts that such establishments have on Adjacent Properties. The extended hours license is personal to the applicant and shall not be transferred or assumed without the approval of the Village Council pursuant to the Conditional Use procedures set forth in section 30-72. An extended hours license is automatically renewed unless it is suspended by the Village Manager. Following the suspension, the Village Council shall hold a public hearing to determine it should be reinstated or revoked. The Village Manager's decision to suspend the extended hours license must be based on a determination that the Use is harmful to the health, safety, and welfare of the Village. The Council shall determine whether there is competent and substantial evidence to support the decision of the Village Manager using the process for an appeal of an administrative decision (See section 30-70). Prior to a decision to suspend an extended hours license, the Police Chief shall submit a report and recommendation to the Village Manager. The report shall address the criteria listed in subparagraphs (1)--(3) above [sic].

The granting of an extended hours license is a privilege subject to revocation by the Village Council at any time. As such, no Person may reasonably rely on a continuation of the privilege.

(b) *Amusement devices.* Such as video games, pinball and similar mechanical devices, as an Accessory Use subject to the following Regulations:

(1) Must be accessory to a Hotel.

(2) All devices shall be located inside a wholly enclosed Building and not visible from any Street.

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

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

(2) The owner of the Bed and Breakfast Inn shall permanently reside in the Building;

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

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

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

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

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

(8) The Building shall have central air conditioning;

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

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

(d) *Commercial and office Uses adjacent to residential districts.* A six-foot perimeter CBS Wall shall be placed on any property line between any commercial or office district and an adjacent Single Family district or the PS Parkside Residential District. A three-foot Setback shall be provided between the Wall and sidewalk when present. This Setback area shall be landscaped to buffer the non-residential Development from the residential Development. In addition, the Building, Zoning, and Planning Director may require additional Street trees planted in the Right-of-Way for purposes of creating a buffer.

(e) *Communication Towers.* It is the intent of the Village to regulate the installation of Communication Towers so as to limit possible adverse economic, aesthetic, and safety impacts from such installations, and thereby promote the health, safety, and general welfare of the community. Consistent with this intention, Communication Towers are permitted as follows:

(1) Monopole Towers are only permitted in RM-30 High Density Multiple Family District, HR Hotel Resort District, the PUD Planned Unit Development Districts, and the GU Government Use District subject to approval by the Village Council pursuant to the

Conditional Use procedures set forth in section 30-72. The Tower(s) shall only be mounted in a location or have screening that prevents them from being seen from a public Right-of-Way. The finish on the Towers shall blend into the sky and the color of the Building. Towers which are located below the parapet are permitted in the above districts subject to approval by the Building, Zoning and Planning Director.

(2) The specific location which is proposed for the Tower must be necessary to provide service to a particular geographical area;

(3) The Tower may not adversely affect the existing character of the surrounding area; and

(4) Approval of the Tower will not be detrimental or injurious to the health, safety, and general welfare of Persons working or residing within the vicinity of the site.

(f) *Community residential ~~facilities~~ homes.* These facilities shall be considered subject to the Conditional Use procedures set forth in section 30-72 and restricted to those districts which list such Use as a Conditional Use subject to the following restrictions:

(1) Restrictions as set forth below:

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

b. A certificate of use and an Occupational License shall be required. No such certificates shall be issued unless the Fire Department approves the issuance of said certificates; and

c. The care provided at the facility limited to personal care, shelter, sustenance, and other support services. Residents and day clients shall be ambulatory;

(2) Site Plan Review approval as set forth in section 30-80; and

(3) Density shall not exceed 16 Units per acre. If the Community Residential Home ~~Facility~~ is located on property that contains several other Uses, then only the area that is directly associated with the facility shall be used to determine density. For density purposes, two beds equals one Unit, regardless of the Number of sleeping rooms.

(g) *Day care facilities.*

(1) Commercial, Institutional, Hotel Resort, and Planned Unit Development Districts: Day care facilities are permitted in these districts subject to the restrictions below as either Main Permitted Uses or Accessory Uses.

a. That the applicant obtain a license from the State regulatory agency responsible for the regulation of such Uses; and

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

(2) If a swimming pool is on the site, refer to section 30-110(f) above for fence requirements.

(3) These Regulations apply to those facilities that may be operating in the Village but without any approval from the Village. These facilities are required to comply with these Regulations within 90 days from the date this ordinance is adopted. These regulations also apply to prospective facilities.

(h) *Height exemptions.* The height Regulations as set forth in the zoning districts, shall not apply to the following:

TABLE INSET:

(1) Airplane beacons	(14) Ornamental Towers and spires
(2) Belfries	(15) Stacks
(3) Communication Towers	(16) Steeples and domes
(4) Chimneys	(17) Smoke stacks
(5) Church spires	(18) Tanks
(6) Conveyors	(19) Roofs (see subparagraph d. below)
(7) Cooling Towers	(20) Satellite dishes (see subparagraph (j) below)
(8) Cupolas	(21) Television antenna
(9) Elevator bulkheads	(22) Towers, decorative
(10) Fire Towers	(23) Water Towers
(11) Flag poles	(24) Lighting structures for Village recreation facilities
(12) Lofts	(25) Any other Structure that is similar to those listed above
(13) Monuments	

The above listed exemptions are allowed, provided the following criteria are met:

a. The maximum height allowed in the district shall not be exceeded by more than 35 percent, except for the height of roofs, which shall be pursuant to subparagraph (4) below, and except for lighting structures for Village recreational facilities (including lighting for playing fields) which may have a height of up to 70 feet. The maximum Floor Area of any of the rooftop Structures listed above is limited to ten percent of the roof area of the entire Building. Equipment shall be screened in a manner that prevents it from being seen from the Street. The Building, Zoning, and Planning Director may require a line of sight study in order to make this determination.

b. Parapet Walls may exceed the permissible height limit provided that they shall not extend more than five feet above the flat portion of the Building roof upon which they are constructed.

c. Notwithstanding other provisions of these Regulations, the height of all Structures shall be limited by the requirements of the Federal Aviation Administration and any airport Regulations applicable to the Structure.

d. Principle Building roofs shall comply with the following requirements:

1. Hip roofs shall be symmetrically pitched between 4:12 and 8:12 ratios.
2. Gable end roofs shall be symmetrically pitched between 6:12 and 12:12 ratios. Profile molded gables may be pitched to a 4:12 minimum ratio.
3. Flat roofs shall have a minimum Parapet height of one foot.
4. Shed roofs shall have a minimum pitch of 3:12 ratio.
5. Roof overhang. No portion of a roof, including the gutter, shall be permitted to extend more than five feet from the exterior Wall of a Building and not closer than 3.5 feet from an interior side property line or 2.5 feet from any Wall facing a Street.

6. When a scupper drainage system is used, the scupper shall have a minimum 7.5-foot Setback from any Lot line.

(i) *Home occupations in Single Family, RM Multiple Family Districts, and PUD Planned Unit Development Districts.* Are permitted subject to the following:

(1) Signage is prohibited;

(2) No customer may be served in the home;

(3) Employees in the business are limited to full time residents of the Dwelling Unit; and

(4) The business requires a Village Occupational License.

(j) *Outdoor dining Regulations.* Tables and chairs may be placed outside of a restaurant on private property that is located on individual sites or within Shopping Centers. The tables and chairs may be used for dining purposes as an accessory to an indoor restaurant facility, subject to compliance with the following criteria:

(1) Tables and chairs shall not be placed in a manner that restricts direct pedestrian Access along a 44-inch wide pathway from the entrance of a Shopping Center to a elevator or steps. Tables and chairs shall not be placed in a manner that violates The Americans with Disabilities Act ("ADA");

(2) Furniture is limited to tables, chairs, and umbrellas;

(3) Signage is prohibited on outdoor furniture;

(4) The applicant shall submit evidence that the owner of the Shopping Center permits Outdoor Dining Facilities on the Premises;

(5) Furniture which is composed of PVC, plastic, fiberglass, Formica, or similar materials is prohibited;

(6) An Outdoor Dining Facility shall not require additional Parking;

(7) The Building, Zoning, and Planning Director may establish conditions as part of the approved Site Plan. An appeal of the Director's decision shall be decided by the Village Council;

(8) There shall be no outdoor music or amplification associated with the Outdoor Dining Facilities;

(9) Tables and chairs that are not permanently attached to the floor shall be stored inside the restaurant providing such service, when the restaurant is closed;

(10) Tables and chairs at each restaurant shall have a consistent design and color;

(11) Tables and chairs shall be located directly in front of the restaurant Unit served;

(12) The restaurant providing such Outdoor Dining Facility shall provide bathroom facilities in accordance with the South Florida Building Code;

(13) Restaurants shall have any disposable tableware and accessories marked with its trademark or indicia of ownership and shall be responsible for all litter within a 300-foot radius;

(14) All food preparation shall be from within the enclosed restaurant;

(15) Pass-through windows, take-out windows, or similar types of windows are not permitted; and

(16) A Site Plan, accompanied by all pertinent data, shall be submitted to and approved by the Village's Building, Zoning and Planning Department, Fire Department, and Police Department. Such Site Plan shall be revocable at the will of the Village if any of the criteria or conditions of approval are violated or if new Regulations are adopted by the Village and not satisfied by the restaurant facility. Site Plans shall describe the location of

all furniture, lighting, and other related services and functions associated with the request for approval.

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

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

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

(3) If the Building, Zoning, and Planning Director determines that the plans indicate that future conversion may result in additional Dwelling Units not in compliance with these Zoning and Land Development Regulations, the Director may deny the plans outright, or may approve the plans with a requirement that the property owner file in the public records of Miami-Dade County, a deed restriction in a form acceptable to the Village Attorney, acknowledging the specific limitation as to the number of lawful Dwelling Units and declaring an intent to comply with such limitations, as well as advising any successor in interest of such binding limitations.

(4) For purposes of this subsection, the floor space shall not:

a. be used as a separate Dwelling Unit;

b. have separate Cooking Facilities; but

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

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

(l) *Satellite dish antennas.* Shall not have a diameter that exceeds one meter. Antennas or dishes larger than one meter in the other districts shall comply with the following requirements and may only be approved by the Village Council subject to the Conditional Use procedures:

(1) Dishes shall be placed in a location to minimize its view from any Public Street. The height shall not exceed 18 feet measured from the elevation of the roof to the highest point of the dish at its maximum vertical extension. The Building, Zoning, and Planning Director may place conditions on the location and require screening to achieve this objective. Appeal of a Building, Zoning, and Planning Director's decision is to the Village Council as an appeal of administrative decision;

(2) No part of the antenna shall be within 15 feet of a rear, or interior side property line or within the waterfront view corridor (See section 30-100). It is not permitted within the Front Yard, a Yard facing a Street;

(3) The dish shall employ, to the maximum extent possible, materials and colors that blend with the surroundings;

(4) Poles shall be constructed in a manner that will not retain water (i.e. weep hoes or filled with concrete); and

(5) The dish shall be sited in a manner that prevents them from being seen from the Street. In order to make this determination, a line of site study shall be submitted to the Building, Zoning, and Planning Director.

(m) *Suites Hotel or suite Hotel Units.* When a Hotel Unit contains Cooking Facilities it shall be considered as a suite Hotel Unit and shall conform with the following:

(1) The Units shall only be permitted in new construction or in Buildings which have been substantially rehabilitated or where the suites Hotel Units are part of a request for a building permit that will result in the Building being substantially rehabilitated.
(2) Cooking Facilities shall be limited to one microwave oven. The Unit is further limited to one five-cubic-foot refrigerator.
(3) The Building shall contain a registration desk and a lobby;
(4) The Building shall have central air conditioning or flush mounted Wall units;
(5) Except for Units on the ground floor, the Building shall not have unenclosed exterior walkways that provide Access to the Units; and
(6) If a door is provided to a hallway or as a means of exit and entrance into the Unit from the exterior of a Building, then it is considered as a separate Unit for purposes of calculating Density.
(n) *Vending Machines.* Permitted as an Accessory Use if the machine(s) is located inside a Building at least ten feet from a window that faces a Street or in a courtyard when the machine(s) cannot be seen from a Street.

(o) *Cabanas*

A cabana shall not exceed 300 sq. ft. and shall not have 220 volt electrical service. One (1) five (5) cubic foot refrigerator is permitted. Air conditioning is not permitted.

Sec. 30-113. Prohibited Uses.
TABLE INSET:

Prohibited Uses	A particular Use must be specifically identified as a Permitted Use in a particular District in order to be recognized as a Permitted Use in such District. Specific provisions regarding Permitted Uses and other specific provisions of these Regulations govern and control over general rules of construction and general applications or interpretations of these Regulations.~~If a Use is not specifically listed as a Main Permitted Use, Conditional Use, or Accessory Use, then such Use is considered as a Prohibited Use and not permitted anywhere in the Village. Specifically listed prohibited Uses include the following:~~
(a) Any type of Adult Entertainment Establishment.	
(b) Any Use that involves the sale of secondhand merchandise, except the resale of Antique furniture that is at least 50 yrs. old and the resale of jewelry, art, or furs is permitted. Those Uses which have merchandise that is at least 50 yrs. old may offer for sale other secondhand merchandise if the inventory of said merchandise occupies less than 25 percent of the floor space Occupied by the entire Use.	
(c) Outdoor sale or storage of any merchandise except outdoor and Sidewalk Cafes as permitted in section 30-111.	
(d) Psychic Help Uses.	

(e) Video arcade, pinball and similar mechanical and/or electrical game machines as a Main Permitted Use.
(f) The overnight outdoor Parking or storage of any vehicle with signage indicating a commercial business within 125 feet of any Street. Further, overnight outdoor Parking or storage of Commercial Vehicles for businesses not located on the property, is prohibited in any outdoor lot.
(g) Any other Use that the Building, Zoning, and Planning Director has determined to be inconsistent with the master plan or the district in which such Use is intended to be located. An appeal of the Director's decision shall be considered as an appeal of an administrative decision. Such appeals shall follow the procedures set forth in section 30-70 "Appeals of Administrative Decisions".
(h) Drive through facilities, except when associated with a bank.

ARTICLE VI.
CONCURRENCY MANAGEMENT

Sec. 30-160. Purpose.

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

Sec. 30-161. Application for Concurrency Determination.

(a) ***Concurrency application.*** All ~~building~~Development permit applications shall also be treated as applications for a Concurrency Determination under this article.

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

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

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

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

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

Sec. 30-162. Determination of vested rights.

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

(1) A request for exemption from the Concurrency requirements of this article based upon vested rights shall be submitted to the Village Council in a

form provided by the Department. The request shall be accompanied by copies of any contracts, letters, appraisals, reports or other documents or items upon which the claim is based.

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

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

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

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

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

Sec. 30-163. Level of service standards.

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

Sec. 30-164. Exemptions.

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

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

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

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

decoration of the exterior of the Structure;

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

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

Sec. 30-165. Failure to establish Concurrency.

No ~~building~~Development permit shall be issued unless:

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

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

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

Sec. 30-166. Appeal.

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

ARTICLE VIII.
SIGNS

* * *

Sec. 30-191. Prohibited Signs.

The following are prohibited in the Village:

(1) Abandoned Signs.

(2) Animated Signs.

(3) Balloon Signs.

(4) Box Wall Signs.

(5) Buntings.

(6) Bus Bench Signs.

(7) Flags other than one United States flag and one other noncommercial flag together on a pole not to exceed 20 feet in height; one pole each permitted per Building.

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

(9) Monument Signs.

~~(8)~~ (10) Neon Signs (other than Reverse Channel and Wall Signs where permitted) and neon Building trim.

(~~9~~11) Off Premise Signs/Billboards.

(~~10~~12) Pole Signs.

(~~11~~13) Portable Signs.

(~~12~~14) Projecting Signs, except Canopy Signs.

(~~13~~15) Roof Signs.

(~~14~~16) Snipe Signs.

(~~15~~17) Swinging Signs.

(18) V – Sign

~~(16)~~ (19) All Signs except those placed by governmental agencies located on public property.

(~~17~~20) Any Sign on a utility pole except for the purpose of utility identification.

(~~18~~21) Any Sign that could be confused with a traffic Signal or traffic Sign.

(~~19~~22) Any Sign that in the opinion of the Village Manager constitutes a safety hazard.

(~~20~~23) Any private Sign extending over a public Right-of-Way.

* * *

Sec. 30-194. Residential district permanent Signs.

The following Signs are authorized in all residential districts and residential-office districts:

(1) ***Development Identification Sign.*** Permitted only for (a) multifamily Buildings with over five Units; (b) Single Family Developments with over five Units; (c) religious institutions, schools and public Uses. Where Multifamily Dwellings are part of a larger Development, there shall be only one such Sign on each public or Private Street frontage on which the Development faces. Prior to the issuance of a permit, the owner shall covenant that such Sign shall be continually and properly maintained.

TABLE INSET:

Number (maximum)	1 ~~Monument~~Wall Sign ~~(or Sign mounted on perimeter Wall)~~ per Street frontage, except two are permitted where attached to Wall of symmetrical entrance feature. A parcel that has a minimum of 300 feet of Street/Building frontage and is served by two or more Access points may have one additional Sign.
Area (maximum)	24 square feet
Sign Height (maximum)	Four feet
Sign Width	Eight feet

(maximum)	
Setback (minimum)	5 feet from Right-of-Way, 15 feet from side property line
Illumination	Externally or internally Illuminated Signs only
Changeable Copy Sign	Signs for religious institutions only

* ***

Sec. 30-195. Nonresidential district Signs.

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

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

~~TABLE INSET:~~

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

* * *

(7) *Instructional Sign.*

TABLE INSET:

Number	To be approved as part of Site Plan
Area (maximum)	Four square feet
Height (maximum)	Two feet
Other restrictions	No advertising copy

~~(1) Subdivision of an existing Building or planned Building group shall not entitle the new parcels to additional Monument Signs.~~

(2~~1~~2) In the case of a Multitenant Center, Wall Signs are permitted on Walls that face an Access drive or internal courtyard.

~~(3) If the Building Frontage requirement for a Monument Sign precludes an Office Building from having a Monument Sign, one Building identification Wall Sign that otherwise meets the Wall Sign standards is authorized.~~

* * *

Sec. 30-197. Supplemental Regulations.

* * *

(f) *Nuisance and safety.*

(1) *Illumination.* No externally or internally Illuminated Sign shall cause an unreasonably excessive glare intensity in an adjacent residential district.

~~(2) *Site triangle.* No Monument Sign shall be located within a 25-foot triangle at the intersection of two Public Streets (measured along the property or Right-of-Way line) unless it is 30 inches or less in height.~~

* * *

ARTICLE IX~~.~~
LANDSCAPE REGULATIONS

Sec. 30-230. Purpose and intent.

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

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

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

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

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

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

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

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

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

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

Sec. 30-231. Applicability.

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

Sec. 30-232. Required landscape plans.

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

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

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

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

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

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

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

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

(7) Show all landscape features, areas of vegetation required to be preserved by law, (including but not limited to trees, plants, shrubs, native habitats, wetlands, and mangroves), in ~~the~~ –context with the location and outline of existing and proposed

~~Building~~Buildings, fences, and other structural improvements being contemplated on the site.

(8) Indicate method to protect trees and native plant communities during construction according to the Miami-Dade County Landscape Manual standards.

(9) Include a tabulation showing the statistical information necessary to evaluate compliance with the Article including net Lot area, quantity, size, and species of all plant material to be planted, preserved, or relocated; square footage of paved area; and such other information as may be required by the ~~Building, Zoning, and Planning~~ Director to make a determination that the landscape plan meets the requirements of this article.

Sec. 30-233. Landscape plan review criteria.

All landscape plans shall be reviewed in accordance with the following goals and objectives:

(1) Landscape design shall enhance architectural features, relate structural design to the site, visually screen dissimilar Uses and unsightly views, reduce noise impacts from roadways and incompatible Uses, strengthen vistas and reinforce neighborhood site design and architecture.

(2) Existing specimen trees and native vegetation ~~should~~shall be preserved in place to the maximum extent possible~~, but in no event shall less than 30 percent of all landscaping be done with native vegetation~~ or relocated within the site.

(3) ~~The Landscape plan shall include native plant species to the maximum extent possible.(4)~~ Trees and shrubs shall be used to reduce energy consumption by shading Buildings and paved surfaces.

(~~5~~4) Street trees shall be used to shade roadways, sidewalks and provide visual order. All Street tree planting shall conform to the Village's Street Tree Planting System.

(~~6~~5) Trees and shrubs ~~should~~shall be placed on the site in locations that take into consideration overhead utility lines, proximity to native plant communities, septic tanks, and sewer lines.

Sec. 30-234. Required irrigation plans.

(a) ***Applicability***. All Developments which are required to submit a landscape plan shall also provide an in-ground irrigation system with the exception of the following:

(1) Single Family homes where drought-tolerant, xeriscape landscaping has been utilized.

(2) Duplexes and Townhomes on Sites that are 7,000 square feet or less~~.~~ where drought-tolerant, xeriscape landscaping has been utilized.

However, hose bibs shall be placed on the Building at 75-foot intervals.

(b) ***Components of an irrigation plan***. Required irrigation plans shall:

(1) Be drawn at the same scale as the landscape plan.

(2) Delineate the areas that are to be landscaped.

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

(4) Include water source, design operating pressure and flow rate per zone, total volume required for typical depths of application, and application rate.

(5) Include locations of pipes, controllers, valves, sprinklers, backflow prevention devices and electrical supply.

Sec. 30-235. Tree removal permit.

(a) ***Tree removal permit required***. No Person shall cut down, destroy, remove, relocate, destructively damage or cause to be cut down, destroyed, removed, relocated or destructively ~~damage~~damaged, any tree without first obtaining a permit from the ~~Village. However nothing in this article shall prevent a Person from destroying the~~Miami-Dade County Department of Resource Management (DERM).

(b) ***Required tree removal***. The following trees must be removed with new Development and may be removed at any time without receiving a permit:

(1) Schinus ~~terebinthinfolius~~terebinthinefolius (Brazilian Pepper/Florida Holly)
(2) Metopium toxiferum (Poison-~~Wood~~Wwood)
(3) Casurina equisetifolia (Australian Pine)
(4) Melaleuca ~~Quinquenervia~~Qquinquenervia (Melaleuca)
(5) Araucaria ~~Heterophylla~~Hheterophylla (Excelsa, Northfolk Island Pine)
(6) ~~Brassala Actinophylla~~Brassalia Aactinophylla (Schefflera)

***

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

(a) During any construction or land Development, protective barriers of specifications approved by the ~~Building, Zoning, and Planning~~ Director shall be placed

and maintained around all trees to be retained on site to prevent their destruction or damage. The Developer shall use every precaution possible to avoid damaging such trees by preventing the ~~use or storage of materials or equipment,~~ compaction of soil over roots and/or the contamination of soil with such materials as paint, oil, solvents, asphalt, concrete, mortar, and the like, within the drip line.

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

Sec. 30-237. Tree trimming standards.

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

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

Sec. 30-238. Minimum standards.

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

(1) *Tree size.*
a. Minimum height at time of planting: 14 feet.
b. Minimum tree canopy to be seven feet in diameter, centered on the trunk.
~~b~~c. Minimum diameter of trees trunk at ~~five~~~~five~~four feet ~~height~~~~height~~above crown of root structures: 2.5 inches.
(2) *Minimum number of trees.*
TABLE INSET:

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

Institutional and Private Club	one tree for each 1,200 sq. ft. or fraction thereof

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

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

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

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

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

TABLE INSET:

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

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

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

(5) *Plant quality and Native Species Requirement.* All material shall meet or exceed the minimum standards for Florida Number One as provided in the most current edition of "Grades and Standards for Nursery Plants, Part I and II," prepared by the State of Florida Department of Agriculture and Consumer Services. At least 40% of all required plant materials must be native species.

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

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

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

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

(d) On non-waterfront Residential lots, the area within five feet of a side Lot line that is also within 25 feet of the rear property line shall be planted with a dense, landscape screen at a height of at least four feet at time of planting, planted 36" on center, and

attaining at least a 10 foot height. Within that same area on waterfront Residential lots, a hedge of minimum 24 inch height and 24 inches on center must be planted and cannot exceed a height of four feet.
(e) On non-waterfront Residential lots, for those portions of the Structure with a rear Setback of less than 25 feet, the area within five feet of the rear property line shall be planted with a dense, landscape screen at a height of at least four feet at time of planting, planted 36" on center, and attaining at least a ten foot height.

Sec. 30-239. Hatracking prohibited.

Hatracking or topping shall not be permitted; however, crown reduction in excess of one-third shall be permitted under the following conditions:
(1) If a tree interferes with utility lines or utility Structures.
(2) If a tree has storm damage and in the opinion of the ~~Building, Zoning, and Planning~~ Director, after consultation with ____, should be hatracked or topped in order to preserve the tree.
(3) All tree pruning shall conform to current standards of the National Arborist Association.

Sec. 30-240. Landscape manual.

The Village shall utilize the Miami-Dade County Landscape Manual until such time as one is developed by the ~~Building, Zoning, and Planning~~ Department and adopted by Council resolution. The purpose of the manual is to provide illustrative interpretations of the Regulations listed in this article, best landscape practices, and related guidelines to insure that landscaping is installed and maintained in a manner that is consistent with the objectives ~~[of]~~ these Regulations.

Sec. 30-241. Certificate of occupancy and certificate of completion.

No certificate of occupancy or certificate of completion shall be issued until such time as all of the required landscaping is installed and approved by the ~~Building, Zoning, and Planning~~ Department. However, nothing herein shall prevent the issuance of a temporary certificate of occupancy so long as at least the sod portion of the landscaping has been installed.