



## **CITY OF MIAMI SPRINGS, FLORIDA**

**Mayor Maria Puente Mitchell**

**Vice Mayor Jorge Santin**  
**Councilman Walter Fajet, Ph. D.**

**Councilwoman Jacky Bravo**  
**Councilman Victor Vazquez, Ph.D.**

*Decorum: "Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the City Council, shall be barred from further audience before the City Council by the Mayor, unless permission to continue or again address the City Council is granted by the majority vote of the City Council members present. In accordance with the foregoing, the City Council has determined that racial or ethnic slurs, personal attacks and comments unrelated to City matters or issues constitute prohibited comments from the podium."*

### **CITY COUNCIL WORKSHOP MEETING AGENDA** **Tuesday, May 16, 2023 – 6:00 p.m.** **City Hall, Council Chambers, 201 Westward Drive**

#

- 1. Call to Order/Roll Call**
- 2. Invocation:** Councilwoman Jacky Bravo  
**Salute to the Flag:** Audience participation
- 3. Workshop on City Council Goals and Update on Current and Future Projects**
- 4. Mayor and City Council**

A) Discussion on Overnight parking restrictions (*Mayor Mitchell*)

B) City Advisory Boards (*Mayor Mitchell*)

C) Marketing City (*Mayor Mitchell*)

D) MIA collaboration (*Mayor Mitchell*)

E) Bed tax (*Mayor Mitchell*)

F) Office Space at City Hall (*Mayor Mitchell*)

G) Change the NW 36 Street Charter Provision to improve esthetics, reduce crime, increase density through residential and retail, no more hotels as we are not benefiting from the Bed Tax and causing the city a budgetary drain to provide law enforcement services (*Councilwoman Bravo*)

H) Reinstate with modification to the furthest extent permissible by law Ordinance Chapter 118 - User Charge for use of Excess Police Services (*Councilwoman Bravo*)

I) Request grants & other sources of funding for Two (2) Glenn H. Curtiss monuments (*Councilwoman Bravo*)

- Location 1: Open green area on Curtiss Pkwy across from Miami Springs Country Club (see attached samples)

- Location 2: Open green area in front of the Curtiss Mansion (attached sample The June Bug)

J) Reconstruction of a new Miami Springs Golf and Country club to include: Tennis Courts, Pickle Ball courts, Adult Pool/Lap pool, Junior Programs, Locker rooms, ballrooms with Golfview, Options for cafe quick bites, casual and fine dining options. (Perhaps 2 stories?) (Councilwoman Bravo)

K) Volleyball & Basketball courts new Location: Current tennis court area (Councilwoman Bravo)

L) Apply for Historical Preservation Grant - Original Band Stand for Circle park (see attached images) (Councilwoman Bravo)

M) Focus on a long-term Vision for the City (5,10,20) Years (Councilman Vazquez)

N) Develop overall strategic goals (Councilman Vazquez)

**5. Public Comment**

**6. Adjourn**

Please visit [www.miamisprings-fl.gov](http://www.miamisprings-fl.gov) for current meeting schedule or follow us on Twitter @MIAMISPRINGSFL

Live streaming video of this meeting is available at <http://www.miamisprings-fl.gov/webcast>.

Anyone wishing to obtain a copy of an agenda item may contact the City Clerk at (305) 805-5006, download the complete agenda packet from [www.miamisprings-fl.gov](http://www.miamisprings-fl.gov) or view the materials at City Hall during regular business hours.

Pursuant to Florida Statute 286.0114, the City Council provides the public with a reasonable opportunity to be heard on all matters.

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. 286.0105), all of which the City does not provide.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: (305) 805-5006, no later than (7) days prior to the proceeding.

Pursuant to Sec. 2-11.1 (S) of the Miami-Dade County Code and Miami Springs Code of Ordinances Chapter 33 - §33-20, all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the City Council; (2) any action, decision, recommendation of any City Board or Committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process on such action, decision or recommendation which will be heard or reviewed by the City Council, or a City Board or Committee shall register with the City before engaging in any lobbying activities on forms prepared for this purpose and shall state under oath his or her name, business address, the name and business address of each person or entity which has employed said registrant to lobby, and the specific issue on which he or she has been employed to lobby. A copy of the lobbyist registration form is available from the Office of the City Clerk.



## CITY OF MIAMI SPRINGS PUBLIC MEETING NOTICE

The City of Miami Springs will hold a Council workshop on:  
**Tuesday, May 16, 2023 at 6:00 p.m. at**  
**City Hall, Council Chambers, 201 Westward Drive, Miami Springs, Florida**  
**(Physical Meeting Location)**

The meeting agenda is available online at: <https://www.miamisprings-fl.gov/meetings>

Elected officials and City staff will participate from the physical meeting location. Members of the public may attend the meeting in person at the physical meeting location, or, alternatively, may watch or call in to the meeting by following these instructions:

### ATTEND THE MEETING IN PERSON AT THE PHYSICAL MEETING LOCATION

The meeting will be held in person at the physical meeting location stated above. Due to COVID-19 and social distancing requirements, there will be limited space for members of the public to attend the meeting at the physical meeting location. Admission to the physical meeting location is on a first-come, first-serve basis. Doors will open 30 minutes prior to the meeting start time. Facial coverings are required for admission to the meeting at the physical meeting location and must be worn throughout the entirety of the meeting in accordance with State and County Orders. Social distancing requirements as set forth in State and County Orders must be adhered to.

### WATCH THE MEETING

- **ZOOM: Meeting ID: 863-9512-4146**
- **YouTube: <https://www.youtube.com/channel/UC2at9KNnqUxZRSw1UkhdHLQ/featured>**
- **From your computer/mobile device: <https://www.miamisprings-fl.gov/meetings>**

### CALL IN TO THE PUBLIC MEETING

**Dial 305-805-5151 or 305-805-5152**

*(Alternatively, you may also dial the phone numbers below to join the meeting:  
1 (646) 558 8656, 1 (301) 715 8592, 1 (312) 626 6799, 1 (669) 900 9128, 1 (253) 215 8782,  
1 (346) 248 7799) then input the Meeting ID: 863-9512-4146, followed by #.*

**There is no participant ID. Press # again.**

Any person requiring special accommodations to access this proceeding is asked to advise the City at least 2 days before the proceeding by contacting the City Clerk at [cityclerk@miamisprings-fl.gov](mailto:cityclerk@miamisprings-fl.gov)

### PUBLIC COMMENTS WILL BE ACCEPTED BY THE FOLLOWING MEANS:

**EMAILED COMMENTS:** Members of the public may email their public comments to the City in advance of the meeting. Please email the City at [cityclerk@miamisprings-fl.gov](mailto:cityclerk@miamisprings-fl.gov) by 12:00 p.m. on the day of the meeting with the subject line "PUBLIC COMMENT" and the following information in the body of the email: Your Name, Address, if you are a hired Consultant or City Employee, and/or if you are engaged in Lobbying Activities and/or representing an organization. Please limit your comments to no more than 350 words. Public comments received via email may be read into the record during the public comment portion of the agenda, if any.

**IN-PERSON COMMENTS:** Subject to social distancing requirements, members of the public may attend the meeting at the physical meeting location stated above and deliver their public comments in person during the public comment portion of the agenda.

**VIRTUAL COMMENTS:** *Public comments will also be accepted during the meeting using the virtual meeting platform as follows:*

**By telephone:** To ask to speak during the meeting, call in to the meeting using the instructions above.

Please press \*9 from your telephone and you will be called on to speak during public comments and identified by the last 4-digits of your telephone number.

During the meeting, when your name or the last 4-digits of your telephone number is called, you will be unmuted and you may deliver your comments.

Please be sure to be in a quiet area to avoid unnecessary noise. Please provide the following information before delivering your comments: Your Name, Address, if you are a hired Consultant or City Employee, and/or if you are engaged in Lobbying Activities and/or representing an organization.

A time limit may be imposed for each speaker during public comment.  
Your cooperation is appreciated in observing the time limit.

Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the City Council, shall be barred from further audience before the City Council by the Mayor, unless permission to continue or again address the City Council is granted by the majority vote of the City Council members present. In accordance with the foregoing, the City Council has determined that racial or ethnic slurs, personal attacks and comments unrelated to City matters or issues constitute prohibited comments when addressing the Council during public comments.

#### **PUBLIC RECORDS**

The meeting will be recorded for later viewing and is a public record. The virtual chat, if any, will be saved and is a public record. Minutes of the meeting will be taken and will be made available.

#### **NOTICE PURSUANT TO §286.0105, FLORIDA STATUTES**

**IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.**

#### **AMERICANS WITH DISABILITIES ACT**

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this proceeding is asked to advise the City at least 2 days before the proceeding by contacting the City Clerk's Office at 305-805-5006.

#### **LOBBYING ACTIVITIES**

In accordance with Section 33-01 of the City Code, adopting Section 2-11.1(s) of the Miami-Dade County Code, any person engaging in lobbying activities, as defined therein, must register at the City Clerk's Office before addressing the City Council on the agenda items or engaging in lobbying activities. Specifically, all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the City Council; (2) any action, decision, recommendation of any City Board or Committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process on such action, decision or recommendation which will be heard or reviewed by the City Council, or a City Board or Committee shall register with the City before engaging in any lobbying activities on forms prepared for this purpose and shall state under oath his or her name, business address, the name and business address of each person or entity which has employed said registrant to lobby, and the specific issue on which he or she has been employed to lobby. A copy of the lobbyist registration form is available from the Office of the City Clerk and online at: <https://www.miamisprings-fl.gov/cityclerk/lobbyist-registration-form-0>.

**Have questions or need additional information?**

**Write:** [cityclerk@miamisprings-fl.gov](mailto:cityclerk@miamisprings-fl.gov)

**Call:** 305-805-5006

**Mail:** 201 Westward Drive, Miami Springs, FL 33166

**LISTING OF CURRENT AND PROPOSED CITY PROJECTS PAYABLE WITH ARPA FUNDS**

| Project Name                     | Department   | Project Description   | Status  | Project Cost | Funding Sources |
|----------------------------------|--------------|---|---|--------------|-----------------|
| Prince Field Shades              | Recreation   | Adding three shade structures at baseball fields at Prince Field  | Pending determination of available funds in ARPA  | \$90,000.00  | ARPA funds      |
| Batting Cages                    | Recreation   | Two new batting cages at Stafford and Prince Fields   | Engineering calculations are complete. Pending determination of available funds in ARPA | \$50,000.00  | ARPA funds      |
| Curtis Parkway Pavers            | Public Works | Adding pavers to the existing paved area on the first block of Curtiss median(west side) and adding pavers on the entire east side. | Plans are being reviewed by MD County and pending approval                              | \$88,000.00  | ARPA funds      |
| Curtis Mansion Irrigation System | CMI/PW       | Installation of irrigation system on Mansion property   | CMI issued an RFP waiting for results   | \$40,000.00  | ARPA funds      |
| Westward tree lighting           | Public Works | Adding lights to trees on Westward from Park Street to Esplanade  | Pending determination of available funds in ARPA  | \$36,800.00  | ARPA funds      |

**Other proposed projects which will depend on amount of leftover ARPA funds:**

- 1) Aquatic Center Shade Areas at Kiddie Pool and south side of pool deck \$75,000.00
- 2) Stafford Walking Path with lighting \$250,000.00
- 3) Stafford Exercise Stations \$100,000.00
- 4) Peavey Dove Fencing/renovate T Ball Fields \$200,000.00
- 5) Dog Park Improvements \$90,500.00
- 6) Passive park or other recreational improvements at Rio Vista unknown

**OTHER FUTURE CITY PROJECTS:**

- 1) New City Hall/Police facility
- 2) Parking Garage
- 3) Tennis courts/pickleball courts/racquetball courts at the golf course
- 4) Outdoor basketball courts
- 5) Stormwater Master Plan
- 6) Obtain additional grant funding to complete citywide sidewalk connectivity project
- 7) Wi-Fi in open spaces
- 8) Recreation Master Plan
- 9) Flood and Erosion Control including Roadway and drainage improvements for Esplanade and Melrose Canals.
- 10) Completion of MD County Wellfield Project (MD Project - impacting several pump houses within MS)
- 11) Hire a third party to perform a 5-10 year Strategic Plan

**CURRENT ADMINISTRATION WORK ONGOING OR UPCOMING:**

- 1) Parking Study of downtown area-Ongoing
- 2) Directed Parks and Parkways Board to provide recommendations on changes to our Tree Code.-ongoing
- 3) Negotiations with FOP on new police contract, current contract expires 9/30/23-upcoming June/July 2023
- 4) Monitoring FDOT projects for the NW36th St Corridor
- 5) Monitoring FDOT projects -The Iron Triangle Project
- 6) The Oliva Project 4601-4649 NW 36th Street-Site Plan approved Building Plans due in June/July 2023

## Additional Suggestions from Mayor and Council

| Requestor           | Comments   |
|---------------------|--|
| Mayor Mitchell:     | <ol style="list-style-type: none"> <li>1. Overnight parking restrictions</li> <li>2. City Advisory Boards</li> <li>3. Marketing City</li> <li>4. MIA collaboration</li> <li>5. Bed tax</li> </ol>  |
| Councilwoman Bravo: | <ol style="list-style-type: none"> <li>1. Change the NW 36 Street Charter Provision to improve esthetics, reduce crime, increase density through residential and retail, no more hotels as we are not benefiting from the Bedtax and causing the city a budgetary drain to provide law enforcement services</li> <li>2. Reinstate with modification to the furthest extent permissible by law Ordinance Chapter 118 - User Charge for use of Excess Police Services</li> <li>3. Request grants &amp; other sources of funding for Two (2) Glenn H. Curtiss monuments.               <ul style="list-style-type: none"> <li>Location 1: Open green area on Curtiss Pkwy across from Miami Springs Country Club (see attached samples)</li> <li>Location 2: Open green area in front of the Curtiss Mansion (attached sample The June Bug)</li> </ul> </li> <li>4. Reconstruction of a new Miami Springs Golf and Country club to include: <b>Tennis Courts, Pickle Ball courts</b>, Adult Pool/Lap pool, Junior Programs, Locker rooms, ballrooms with Golfview, Options for cafe quick bites, casual and fine dining options. (Perhaps 2 stories?)</li> <li>5. Volleyball &amp; <b>Basket ball courts</b> new Location: Current tennis court area</li> <li>6. Apply for Historical Preservation Grant - Original Band Stand for Circle park (see attached images)</li> </ol> |
| Councilman Vazquez: | <ol style="list-style-type: none"> <li>1. Focus on a long term Vision for the City (5,10,20) Years</li> <li>2. Develop overall strategic goals (broadly speaking)</li> </ol>   |

## ARTICLE XV. - LARGE SCALE COMMERCIAL DEVELOPMENT DISTRICT

*Footnotes:*

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**Editor's note—** Ord. 1059-2013, passed Nov. 12, 2013, amended the title of Article XV to read as herein set out. Prior to inclusion of said ordinance, Article XV was entitled, "Airport, Marine and Highway Business District." Sections 2 and 3 of said ordinance repealed and reserved §§ 150-154—150-163, which pertained to Airport, Marine and Highway Business District and derived from Ord. 934-06, passed May 22, 2006; Ord. 1013-2011, passed March 28, 2011; Ord. 1038-2012, passed August 27, 2012.

Secs. 150-154—150-163. - Reserved.

Sec. 150-164. - Northwest 36th Street [District].

- (A) *Purpose.* The purpose of the NW 36th Street District is to provide for successful commercial operations that enhance the District, provide architectural features that support historic Miami Springs design standards and enhance overall commercial revitalization.
- (B) *Permitted uses.*
  - (1) *Principal uses and structures generally permitted.*
    - (a) Hotels.
    - (b) Offices, business and professional.
    - (c) Aviation schools.
    - (d) Banks, savings and loan associations and similar financial institutions.
    - (e) Cultural or recreational facilities such as urban plazas, health and athletic clubs, theaters, auditoriums, libraries, art galleries and museums; maximum occupancy of 999.
    - (f) Structures and uses relating to operation of public utilities and requiring location within the district to serve it or neighborhood districts.
    - (g) Mixed-use development of residential uses (up to 20 dwelling units per acre as limited in the City Charter) on upper floors above retail, office, and related uses. Buildings that include residential uses must be built on the northern half of the property if the property is adjacent to NW 36th Street.
    - (h)



All uses identified as permitted uses within a building with other permitted uses but not as a stand alone uses provided in Code § 150-164(B)(2)(d), with the express condition and limitation that the aforesaid uses are permitted as principal uses only in already existing buildings.

- (i) Chapel/viewing services with or without onsite catering, with the express condition and limitation provided in subsection (h) above and the additional restriction that no body preparation or cremation services are permitted onsite.
- (j) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved by the City Council upon application and hearing.

(2) *Principle uses and structures generally permitted; limitations as to location.*

- (a) Bar if related to restaurant within the same building or within a hotel.
- (b) Parking lots adjacent to NW 36th Street are allowed only as a temporary use, subject to improvement of those portions of lots adjacent to principal pedestrian movement. These parking lots may be authorized for use not to exceed a period of one year, and thereafter on a year-to-year basis upon proper application approved by the City Board of Adjustment and the City Council.
- (c) Parking garage with first floor commercial uses. This is not applicable to accessory parking garages in connection with a principal use.
- (d) The following uses are permitted within a building with other permitted uses but not as a stand alone use:
  - 1. Restaurants.
  - 2. Medical and veterinary clinics; boarding for veterinary services only.
  - 3. Clinical laboratory.
  - 4. Agencies for travel and insurance and similar services.
  - 5. Automobile rental agency.
  - 6. Catering business.
  - 7. Retail stores.
  - 8. Service establishments, including personal service establishments such as barber and beauty shops, manicure/pedicure shops, skin care (aesthetics), physical therapy clinics, etc. No physical therapy clinic shall be open for business between the hours of 10:00 p.m. and 6:00 a.m.
  - 9. Service establishments for the repair of shoes, small home appliances, clocks and watches, printing/photocopying service shops; not to exceed 2,500 square feet.

10. Stereo/video/electronics rental, sales and/or service.
11. Dry cleaning and/or laundry for customer pick up/drop off only.
12. Domestic pet grooming only, prohibiting a "pet shop" type business or the boarding, maintaining or keeping of domestic pets on-premises anytime between 7:00 p.m. and 7:00 a.m.
13. Post office.
14. Parcel delivery services.
15. Government uses.
16. Pharmacy.
17. Medical marijuana dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).

(3) *Accessory buildings and structures.* Uses and structures customarily accessory and incidental to specified principal uses and structures, and which do not alter the character of the district, are allowed subject to limitations and provisions established by this ordinance and other applicable City ordinances and regulations.

(4) *Permissible accessory uses and structures; limitations as to location for new structures only.*

- (a) For corner properties, entrances to accessory parking lots and structures shall be oriented away from NW 36th Street, and shall be located behind the principal structure on the same building site.
- (b) To the extent possible, vehicular access to on-site parking, loading, or service shall be limited the side or rear of the property along NW 36th Street. Garbage collection, deliveries, or other service vehicle stationing shall be restricted to the side or rear of the property.
- (c) Access drives are allowed along the adjacent minor street frontage and shall be located and designed in a manner which will insure smooth flow of vehicular and pedestrian circulation.

(5) *Airport zoning regulations.* Any development or redevelopment in this district must be in compliance with all applicable Miami-Dade County Airport Zoning Regulations and all applicable Federal Aviation Administration Regulations.

(C) *Prohibited uses.*

- (1) Adult bookstore.
- (2) Adult-related business.

- (3) Automotive auctions, sales and service facilities.
  - (4) Package store.
  - (5) Gun shop or gun range.
  - (6) Pawn shop.
  - (7) Storage facilities
  - (8) Any large- or medium-scale repair or service facilities over 2,500 square feet.
  - (9) Any manufacturing operation or facilities.
  - (10) Open air, tented, or booth-operated flea markets or any other retail/wholesale operation not contained within a business building, except as otherwise allowed by §§ 110-01 through 110-03.
  - (11) Any other use that is not compatible with, or is disruptive or offensive to, any adjacent residential zoning district by reason of proximity to the district through noise generation, offensive operational by-products (such as odor, dust, smoke, gas, vibrations, etc.,) or by the creation of any nuisance condition.
- (D) *Setbacks, lot coverage, and floor area.*
- (1) *Minimum setbacks.*
    - (a) Front yard setbacks shall be a minimum and ten feet from the property line. No off-street parking shall be allowed between the property line and the buildings.
    - (b) Rear yard setbacks shall be a minimum of ten feet from the property line
    - (c) Side yard setback shall be a minimum of five feet from the property line or 2.5 feet for architectural structures such as breezeways or arches, or canopies.
    - (d) Adjacent to residential districts, side yard and rear yard setbacks shall have a minimum depth of ten feet.
    - (e) All setbacks may be used for utility rights-of-way.
    - (f) Architectural elements such as canopies or a port cochere may encroach five feet into the front setback.
  - (2) *Floor area limitations.*
    - (a) For the purpose of this subsection the floor area ratio (F.A.R.) shall be the total floor area of a building or buildings on a building site divided by the area of the site. See also § 150-002(C)(38). The site must have an minimum F.A.R. of .01. Sites may be developed up to an F.A.R. of 3.0 through the Floor Area Ratio Bonus Program as determined by the City Council.

(b) Floor Area Bonus Program. For a project to receive a Floor Area Ratio bonus based on design, it must, at a minimum, be awarded one design bonus from Design Categories A, B, C, and D and/or seek green building certification in Design Category E. Design bonuses for additions to existing buildings are added to the existing FAR of the building; however, the proposed FAR (existing building + addition) shall not exceed a FAR of 3.0.

(c) Schedule of Floor Area Ratio Bonuses for Projects in the NW 36th Street District.

| Design Category             | Design Bonus  | Amount of FAR Bonus   |
|-----------------------------|---|---|
| A. Site Planning and Design | a. Pedestrian amenities—Considering pedestrian access, linkage in circulation pattern, relationship to architectural and urban design features, relationship to public and private spaces, accessibility, usability and coordination with adjacent properties | 0.25  |
|                             | b. Open space—Areas shall be open to the sky. The amount of open space shall exceed the area that results from the setback requirements   | 0.01 for every ten percent that exceeds the area resulting from the required setbacks, not to exceed 0.25 |
| B. Building Features        | a. Outdoor cafe when associated with restaurant on the ground floor of the building   | 0.01 per seat, not to exceed 0.05   |
|                             | b. First floor retail or service uses with a minimum of 1,000 square feet. Direct access to such uses and full storefront windows are encouraged  | 0.01 per 1,000 square feet of retail space not to exceed 0.10   |
|                             | c. Hotel units  | 0.01 per hotel room   |

|  |   |  |
|--|---|--|
|  | d. Meeting rooms, assembly rooms and conference rooms   | 0.01 per 500 square feet of meeting space not to exceed 0.25                                   |
|  | e. Construction of a porte cochere  | 0.25   |
|  | f. Landscape maturity—This bonus applies to landscaping that has achieved a minimum of 50 percent of maximum average height at time of planting   | 0.25   |
| C. Improvements: Rights-of-Way and On-Site Public Spaces | a. Alley improvements—Resurfacing and lighting in accordance with the specifications as established by the City Engineer. Includes the placement of all utility lines, transformers and related equipment underground and/or in vaults  | 0.25   |
|  | b. Inclusion of an entry plaza, when not part of a required yard or setback, occupying a minimum of 15 percent of the building width  | 0.25 for each 150 square feet of entry plaza, maximum 0.25                                     |
|  | c. Decorative gates/fences or permitted walls between buildings and surrounding sites. Material composed of wrought iron or aluminum. CBS may be used with wrought iron or aluminum. However, the area of the CBS must not exceed 50 percent of the total area of the gate, fence or perimeter gate. Alley may be 100 percent CBS | 0.25 for each one percent of permitted fence/gate, 25 maximum (0.25 × amount of the % = bonus) |

|                      |  |      |
|----------------------|--|------|
| D. Site Improvements | a. Public art that is visible from the public right-of-way, integration with use of public spaces, and activity areas, uniformity of style, location and scale. At a minimum the art work shall cost one percent of total construction cost as indicated on the Building Permit or \$25,000.00 whichever is greater. Does not include water features that are listed below   | 0.25 |
|                      | b. Decorative water features—Considering movement, sound, reflection, recreation, cooling effect, architectural effect, coordination with plaza or other special place, public-private transition, visual impact, and relation to overall project design. This factor is only applicable for water features that exceed half of one percent of the cost of the building as listed on the Building Permit application | 0.25 |
|                      | c. Street trees, grates and irrigation—Landscaping on the public right-of-way shall occur for the entire street frontage of the property and trees shall be planted no further apart than 25 feet on center for palms and 30 feet on center for canopy trees. Shall only be awarded if funded by the developer   | 0.25 |
|                      | d. Lighting—Installation of decorative lighting per Revitalization Specialist selection and recommendation   | 0.25 |

|                    |   |     |
|--------------------|---|-----|
| E. Green Buildings | Green Building Certification. LEED (New Construction or Major Renovation) Silver or greater, or certification by the Florida Green Building Council   | 1.0 |
|                    | (a) The applicant must successfully register the project with the Green Building Certification Institute or the Florida Green Building Coalition, or other third party certifying agency as approved by the City Planner, and provide evidence of such registration   |     |
|                    | (b) Applicant shall have a minimum of one LEED accredited professional, or other similarly accredited professional, on the design team. Applicant shall provide a copy of the LEED accreditation certificate or similar certification and describe the role of the LEED accredited professional on the design team  |     |
|                    | (c) The applicant must provide a copy of the pertinent credit checklist indicating which credits the applicant intends to achieve along with a written narrative and detailed drawings and plans illustrating the applicant's intent to meet the prerequisites as described in the applicable LEED Rating System or FGBC Designation for the specific building type |     |

(d) Prior to the issuance of the first principal building permit the applicant shall post a performance bond equal to five percent of the total cost of the construction in order to secure performance and fulfillment of the applicant. In lieu of the bond required by this Section, the City may accept an irrevocable letter of credit from a financial institution authorized to do business in Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the City. The letter of credit or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for certification by the Green Building Certification Institute or other nationally recognized certifying agency within one year after receiving the City's certificate of occupancy, the applicant shall either request an extension or forfeit 100 percent of the bond. The applicant, for good cause shown, may request an extension of time of up to one additional year to achieve certification. Such extension may be granted at the sole discretion of the City Council after having considered the factors and improvements necessary to achieve the requisite certification. If certification is not achieved within two years after receiving the City's certificate of occupancy, the applicant shall forfeit 100 percent of the bond to the City

(E) *Height limitations.*



- (1) Structures located within 150 feet from adjoining residential districts shall not exceed four stories or a height of 55 feet.
  - (2) Structures or portions of structures located more than 150 feet from adjoining residential districts shall not exceed a height of 120 feet.
  - (3) Notwithstanding the foregoing, the heights of all buildings in this district are specifically subject to compliance with all applicable restrictions and limitations provided in the Miami-Dade County Airport Zoning Regulations and the regulations of the Federal Aviation Administration.
- (F) *Off-street parking and loading.* Existing and new development shall adhere to § 150-016 with the following exceptions for NW 36th Street:
- (1) *New construction and building expansion.*
    - (a) The following parking is required for new construction and building expansion:

| Use                     | Proposed Requirements  |
|-------------------------|--|
| Medical Office          | 4 spaces per 1,000 square feet   |
| Multifamily Residential | 1 space per bedroom, but no less than 1.5 spaces per unit  |
|                         | Multifamily buildings with more than two dwelling units shall be required to provide supplemental designated guest parking equal to ten percent of the required residential parking spaces |
| Mixed-Use               | Sum of all uses × 80 percent   |
| Office                  | 3 spaces per 1,000 square feet   |

*Accessory parking lots.* Accessory parking lots shall be constructed and designed in accordance with § 150-016. Screening shall be used to shield parking and/or truck use yards, storage and activity areas from the public view. Screening shall consist of a minimum six foot block fence and hedge.

(3) *Loading zones and parking of commercial vehicles.* Loading zones and the parking of commercial vehicles shall be arranged so as to provide safe access from driveways and public streets, to prevent interference with vehicular and pedestrian circulation on the premises, and to avoid friction with traffic passing the premises.

(4) *Off-street loading.*

(a) For the purpose of this subsection a loading space is defined as a space within the main building or on the same lot, logically and conveniently located for bulk pickups and deliveries. No loading berth shall be less than a minimum of 12 feet in width and a length of not less than 35 feet, and shall be directly accessible from a street without crossing or entering any other required off-street loading or off-street parking spaces.

(b) All developments shall provide off-street loading which shall be located and designed so as to provide safe and convenient access by delivery vehicles from driveways and public streets with minimal interference with the movement and parking of other vehicles on the premises and to avoid friction with traffic passing the premises. Subject to the approval of the City Zoning and Planning Board and the City Council, loading areas may be required to be placed in locations separated from other activities or screened by appropriate physical barriers.

(c) Required off-street loading stalls shall be reserved for loading purposes, and shall not be used for parking of vehicles other than those in the process of loading or unloading. No vehicle being loaded or unloaded shall project into any public walkway or street.

(d) Off-street loading facilities shall be properly drained to prevent damage to abutting property or public streets, and shall not be used for any purpose other than loading and unloading. At no time shall the loading area be used for storage.

(G) *Specific architectural design standards.*

(1) *General requirements.* The general requirements outlined in this section are minimum aesthetic standards for all site development, buildings, structures, remodeling and renovations for the NW 36th Street District.

(2) *Architectural design.* It is required that all new site development, structures, buildings, remodeling and renovations show proper architectural design concepts and be appropriate to their surroundings. All remodeling and renovation of existing buildings and structures within the District shall exhibit the Pueblo/Mission Revival or Streamline/Depression Moderne architectural design standards. All new construction shall exhibit Streamline/Depression Moderne architectural design standards. Examples of these styles will be available through the Office of the City Planner.

- (a) There may be no two identical facades within a one quarter mile radius within the NW 36th Street District. A facade shall be considered to be identical if the fenestration or major architectural elements of the front facade such as roof line, window types and placement, entry type and placement, exterior materials, exterior colors and the vertical planes of the front facade are located in the same location or if major elements, materials and colors of the front facade are repeated to such an extent as to appear to be the same building. For purposes of this definition, a reversed or flipped elevation shall be considered to be an identical facade.
  - (b) Prototypical or "national identity corporate" designs for buildings are not permitted without respecting the requirements and intent of this ordinance, particularly as a repetitious design proposed to be located in various parts of the City.
  - (c) Buildings that are of symbolic design (where the logo or corporate identity is integrated into the design for reasons of advertising and marketing) and buildings which are not compatible to the Architectural Design Standards or atmosphere of the City of Miami Springs are prohibited. Symbols attached to buildings are not permitted unless they are secondary in appearance to the buildings and landscape and are an aesthetic asset to the building project and neighborhood.
  - (d) Building surfaces, walls, roofs, and structures including accessory and ornamental structures shall be in compliance with the Architectural Design Standards.
  - (e) There shall be definite boundaries to storage, loading, pedestrian and bicycle activity, and parking areas. Landscaping is to be employed on the site, not only to enhance the building or buildings, but also to create a pleasing atmosphere throughout the site. Accessory buildings and structures shall be harmonious with the main building(s) design.
  - (f) Any onsite pedestrian/bike paths must have decorative pavers.
- (3) *Pueblo/Mission Style Architecture.* Pueblo and Mission Style Architecture are similar in many elements and complimentary in others.
- (a) Wall surfaces shall be medium or rough textured stucco.
  - (b) Roofs shall be flat and hidden behind flat or curved parapets. The same parapet design shall repeated over front porches. Parapets shall be topped by textured stucco trims or sloping mission tiles.
  - (c) Sloping mission tiles are allowed on porches, verandas, or shading structures.
  - (d) Cylindrical scupper tiles shall pierce the parapet, letting water drain off flat roofs. Parapet corners shall be soft and rounded. The parapets can be of irregular contours.
  - (e) Exterior walls may taper up.
  - (f) Arcades, arched openings or rounded beam/column intersections at the porches are allowed.
  - (g)

Rectangular windows and storefronts are allowed when the overall design appearance is consistent with a unified design approach.

- (h) Exposed beam ends (vigas) are allowed.
  - (i) Irregular openings, hand molded shapes and buttresses are allowed.
  - (j) Applied decorations are not permitted.
- (4) *Streamline/depression moderne style architecture.* Streamline moderne and depression moderne style architecture are similar in many design elements and complimentary in others.
- (a) The design must be devoid of applied decoration.
  - (b) The design shall include soft forms, rounded corners, and horizontal compositions including banding of windows and storefronts.
  - (c) Flat roofs with parapets are required design elements.
  - (d) Cantilevered slabs serving as canopies or "eyebrows" over the windows (shading from the heat gain effect of direct sunlight) are required. Front porches and courtyard designs are encouraged.
  - (e) Decorative railings, keystone details, porthole windows, rounded corners and spires are permitted.
- (5) *Building form.* Buildings that are four stories or taller shall include the following design features:
- (a) Symmetrical or asymmetrical facades with varying roofs.
  - (b) Wall planes predominate on primary surfaces.
  - (c) Stucco finished columns shall be square or rectangular, and may taper up.
  - (d) Balconies, porches, canopies, awnings and verandas are permitted.
  - (e) Rectangular windows and storefronts are allowed when the overall design appearance is consistent with a unified design approach.
- (6) *Exterior materials/colors.* Stucco shall be the primary approved wall surface material.
- (a) Accent materials and colors may be used.
  - (b) The use of tile, wood, brick and finished concrete shall be used as design accents only.
  - (c) Buildings, accessory structures, perimeter walls, and signs are required to have at least two colors.
  - (d) When using more than two colors, there shall be one or two base colors and one or two trim colors.
  - (e) Base colors and materials shall be warm pastels, light pastels, or shades of white selected in compliance with the approved City of Miami Springs color palette.

- (f) The trim/fascia colors shall be tones or shades of cream or off-white.
  - (g) Accent materials and colors are not limited to the approved color palette.
  - (h) Symbolic color (where the logo or corporate identity is indicated by the color for reasons of advertising and marketing) of the exterior facades or roofs may not be used unless they are in compliance with the approved color palette.
  - (i) Outside equipment, including hoppers, cranes, mechanical apparatus, playground apparatus, street furniture, bollards, bicycle racks, and so forth, must be in compliance with the approved color palette.
- (7) *Balconies, courtyards and verandas are allowed.* The exterior paint colors shall comply with the City of Miami Springs approved color palette.
- (8) *Mechanical equipment.* All roof-mounted equipment must be screened by compatible materials equal to the height of the equipment or concealed behind architectural components.
- (9) *Front yard accoutrements.* Ornaments and objects d'art visible from street are permitted through the project approval process.
- (10) *Utilities.* All utilities shall be placed underground, and there shall be appropriate provisions made for servicing such utilities.
- (11) *Windows.* Window replacement must be consistent with the standards and harmonize with the entire facade.
- (12) *Garages and accessory buildings and structures.* Garages, storage sheds, enclosures, masonry walls, perimeter walls, signs, poles, fences, decks and other ancillary structures shall be integrated with the architectural style and must be within the approved color palette. Garage doors and loading overhead doors shall not be visible from street-sides unless they are screened or buffered from adjacent properties.
- (13) *Dumpster, compactor, and mechanical equipment.* Dumpster, compactor, and mechanical equipment enclosures shall have colors and trim details to match the principal building color. Gates shall be designed and composed of opaque materials (such as wood or prefabricated metal) and painted in a secondary approved color. Chain-link gates, with or without slats, are prohibited. All such equipment enclosures must also be in compliance with the provisions of Code § 93-10.
- (14) *Pedestrian orientation.* All proposed nonresidential and multi-family residential development shall contribute to the creation of a pedestrian oriented community by providing the following:
- (a) Emphasis on the building's street facades as major elements of the overall streetscape.
  - (b) Street-level architectural treatment, including covered walks, balconies, awnings, canopies, and other shade producing elements along pedestrian-oriented elevations.
  - (c) Pedestrian oriented frontage adjacent to building entrances and integrated with adjacent properties.

- (15) *Pedestrian/bicycle paths.* Pedestrian access may be provided at any suitable location, but shall be separated from vehicular access points, except where signalization is used to control pedestrian and vehicular movements.
- (a) Pedestrian/bicycle paths incorporated into a plan shall have a minimum of six feet of pavement width.
  - (b) The path shall connect all the residential parcels to park(s) and school(s), recreational areas, and whenever possible, commercial parcels.
- (16) *Landscaping.* Landscaping shall be incorporated into the proposed plans, especially as it relates to plant material selections including heights, locations, and buffer design. Flowering shrubs, trees, ground cover and annuals are encouraged wherever possible to enhance the site design.
- (a) *Protective screening and landscaping.* In addition to landscape regulations established in § 150-016, the following additional requirements shall apply:
    - (i) Where any development site in this district adjoins a residential district, there shall be a landscaped buffer area, ten feet wide, located along the portion of the site which directly abuts the residential district. Landscaping shall include and continuously be maintained as a hedge not less than six feet in height in order to form a continuous screen. In addition, one tree shall be provided for each 30 linear feet. The buffer area shall include a six foot high block fence which shall be located inside the required hedge and extend along the length of the adjoining residential property lines, except for sites on through-streets, where a masonry wall shall be no closer than ten feet to the property line and parallel to the street right-of-way. No off-street parking shall be allowed in the buffer area.
    - (ii) At least ten percent of the building site shall be reserved for landscaping which shall be continuously maintained by the owner.
    - (iii) No row of parking spaces shall exceed ten spaces without a five foot minimum width of landscaped area to divide any continuation of such row of parking. (Applicable to surface parking only).
    - (iv) At NW 36th Street and on side streets, appropriate palms and/or tree species shall be provided at a maximum of 30-foot intervals, not less than five feet from the curb line.
    - (v) For the purpose of this subsection, the protective masonry wall shall be constructed of CBS concrete block or another Miami-Dade County approved pre-fabricated concrete material. The owner shall be responsible for the maintenance of the protective masonry wall and of all landscaping which shall be maintained at a set height and in good condition so as to present a neat and orderly appearance, and shall be kept free from refuse and debris.
    - (vi) All landscaped areas shall be provided with a readily available irrigation system.

- (17) *Signs.* Sign regulations for this zoning district are contained within Code of Ordinance § 150-030.
- (18) *Lighting.* Lighting shall be incorporated into proposed plans. All exterior and site lighting fixtures shall be designed to be compatible with the Pueblo/Mission or Streamline/Depression Moderne architectural styles, especially as it relates to pole heights, fixtures, lighting colors, lamps, pole design, and site location.
  - (a) Parking lot pole fixtures shall be limited to 25 feet in height, including the pole and fixture, and designed to meet all photometric requirements.
  - (b) Pedestrian walks shall have decorative pole fixtures no higher than 12 feet high to the top of the fixture.
  - (c) Lighting fixtures attached to the walls of the buildings shall harmonize with the architectural character of the building and pedestrian light fixtures (if applicable).
  - (d) Lighting is not to be used as a form of advertising in a manner that is not compatible to the neighborhood or in a manner that draws considerably more attention to the building(s) or grounds at night than in the day.
  - (e) Lighting following the form of the building or part of the building or structure or sign will not be allowed, if, the overall effect will be detrimental to the environment.
- (19) *Advertising.* No advertising will be allowed on any exposed amenity or facility, such as benches, trash containers, umbrellas, or any style or form of building wallscape.
- (H) *Revitalization Specialist.* The Revitalization Specialist will provide recommendations for aesthetic enhancement projects based on the Architectural Design Standards approved by the Miami Springs City Council and commercial revitalization plans of the City.
- (I) *Development review procedures.* An application for development review shall be submitted to the City for processing. No construction or alterations governed by this ordinance may begin without such approval. There are two types of approval. These are outlined below:
  - (1) *Review for projects not requiring City Council Approval.* The City Planner and City Building Official shall review all permit applications not requiring City Council approval such as accessory and minor structures such as fences, sheds, replacement of sign faces, new signage, exterior wall re-painting or re-roofing to ensure the improvements are in compliance with the Architectural Design Standards.
  - (2) *Projects requiring formal review by the City Council.* The following formal approval process for the City shall apply to all new construction, remodeling and renovation projects.
    - (a) Optional informational and pre-application meeting with City Staff and Revitalization Specialist as described in (J).
    - (b) Mandatory preliminary review meeting with City Staff and Revitalization Specialist. The requirements of this meeting are described in (K).

- (c) Applications for variances, if any, shall be submitted to the City Board of Adjustment for review and consideration in accordance with the procedures set forth in Code §§ 150-110 through 150-113.
- (d) The City Zoning and Planning Board will have the responsibility to review all site and development plans and to make recommendations for modification, approval or denial to the City Council in accordance with Code §§ 150-101 and 150-102.
- (e) The decisions and recommendations of the City Board of Adjustment and Zoning and Planning Board will be reviewed for final approval by the City Council in accordance with the procedures set forth in Code § 150-113.
- (f) The City Council will authorize the preparation and issuance of a Development Order for each project application which has completed the Development Review Process.

(j) *Pre-application meeting.* City Staff and Revitalization Specialist will conduct one optional informational and pre-application meeting. Preliminary review will be undertaken upon the applicant submitting the plans and documents listed below. The review shall not be binding on the City, but may assist the applicant in understanding the intent of the Architectural Design Standards. There shall be no charge to the applicant for this preliminary review process.

The applicant shall submit the following as a condition for the scheduling of the pre-application meeting.

(1) Two sets of preliminary drawings and specifications which may include any or all the following items:

- (a) A schematic site plan showing all new construction improvements and/or existing conditions.
- (b) A schematic landscape plan (may be incorporated into the site plan) showing all existing and proposed plant material(s).
- (c) A schematic floor plan showing new building layout or additions, renovations and remodeling work.
- (d) Property plan or survey.

(2) A summary report of this meeting shall be attached to any formal application filed for site and development plan approval.

(K) *Development review.* Revitalization Development Site Plan Review. Any development within the NW 36th Street District shall be required to have the site and development plans approved as provided herein before a building permit is issued to insure that development is in accord with the intent of this district. Applications for site and development plan approval shall be submitted to the Planning Office according to the provisions of the Zoning Code and the additional requirements and procedures specified herein. The application for site and development plan approval shall include but shall not be limited to:

(1) Plans, maps, studies and data which may be necessary to determine whether the particular proposed development meets the intent of the NW 36th Street District, and the specific requirements and standards contained in this subsection.

(2)



A survey showing property and ownership lines; existing structures, alleys, easements and utility lines.

- (3) Location map showing the project site in relation to major road systems within the City.
- (4) General nature of the proposed development, planned uses and activities and the name of the developer.
- (5) A site plan showing setbacks, height, floor area ratio, orientation and all existing and proposed site development as required by this ordinance. Landscaping Design may be incorporated into the site plan or submitted as a separate plan.
- (6) Dimensioned floor plan(s).
- (7) Cross-sections.
- (8) Exterior colored elevations of each building facade (including, but not limited to, renderings, sketches, and/or perspectives). Elevations must be mounted on 24-inch by 36-inch boards and submitted to the City prior to public meetings
- (9) One set of identical uncolored elevations shall be submitted in paper format. Elevations must include all items affecting the appearance of the building including, but not limited to, site amenities, street furniture, air-conditioning grilles, compressors, mechanical equipment, exterior colors and material designations, exterior lighting, landscaping, and all signs. These drawings shall be referenced to the color and/or material samples submitted with the application and on the mounted drawings. Photographs and other similar documents which provide sufficient information will suffice for small-scale projects where applicable.
- (10) Detailed drawings for all signs, (with color and text styles, referenced in the application), except those which cannot be determined because the occupancy of the space is not known, in which case, only the text shall be excluded.
- (11) A description of exterior material designations and surface treatments (with attached samples, catalog specs, or colored brochures) including roofs and ground treatments. Sample materials may be submitted as segments, catalog cuts, or photographic records attached to the application. Large, bulky materials whose size or shape will not fit easily with the application file will not be accepted.
- (12) Exterior façade color samples complying with the City of Miami Springs approved color palette shall be submitted with the application (including that of signs).
- (13) All lighting proposed (i.e. fixture types and locations, materials, lamp design, illumination colors, etc.) shall be included within a site photometric plan and fixture schedule.
- (14) Other information as may reasonably be required by the City Staff or the Revitalization Specialist to provide information needed to process the application.
- (15)

One, professionally crafted, two-point perspective color rendering of the project and one rendered landscaped site plan for review by the Revitalization Specialist. This shall be completed prior to public meetings. Digital images of the plans and renderings must be submitted in JPG, JPEG, TIF, or TIFF formats, resample at no greater than an 11-inch by 17-inch paper size, with a resolution of 200 dots per inch (dpi), for use in a Microsoft PowerPoint presentation at the City Council meeting.

- (16) Points of ingress and egress for vehicular and pedestrian traffic, circulation patterns within the project, including location and design of east/west roadways, where required.
  - (17) Location, character, and scale of parking and service facilities, including area and number of parking spaces, character of structural parking, if any; location of loading areas and commercial vehicle parking.
  - (18) Any additional materials and information as may be required by the proper agencies of the City.
  - (19) Where a proposed development is planned to be constructed in phases, the timing of the first phase shall be indicated. The information concerning the nature of the development, uses, location and floor areas to be developed shall also be supplied. The same information shall be provided for succeeding stages. Initiation of succeeding stages shall be made dependent upon the completion of earlier stages and the supplying of any information that may be required by the proper City agencies.
  - (20) When a proposed development contains provisions concerning the establishment and continuing operation and maintenance of improvements and facilities for common use by the occupants of the project and the general public, but which are not provided, operated, or maintained at general public expense, the owner shall give assurance in a manner approved by the City Council that such improvements and facilities will be maintained without future expense to the City, and that the development will conform to approved site and development plans.
- (L) *Exemptions.* The following applications for development, redevelopment, or building permit will be exempt from the application of this ordinance:
- (1) Any building or structure for which final site plan approval has been obtained prior to the enactment of this section.
  - (2) A project determined by the City Planner to be of a temporary nature such that meeting the intent of the ordinance would not be practical.
  - (3) The City Administrative Staff shall retain the authority to exempt any proposed development or redevelopment project for this district that is being proposed for any existing structure or structures from the application of any or all of the provisions of Code § 150-164. This exemption shall not be applicable to development or redevelopment projects in this district proposed for vacant or "ground up" construction which retains the continuing availability of the City variance process for specific relief from the provision of this code

section.

(M) *Fees.*

- (1) Each application filed with the City shall be accompanied by the payment of a fee, to be determined by the City depending on the scope of the project, to cover the expenses incurred by the City and Revitalization Specialist in processing and reviewing the application for development.
- (2) The applicant shall reimburse the City for the cost of any fees incurred by the City and the Revitalization Specialist in reviewing or processing any application.

(Ord. 1013-2011, passed 3-28-11; amend. Ord. 1035-2012, passed 5-14-12; amend. Ord. 1045-2012, passed 12-10-12; amend. Ord. 1086-2016, passed 6-27-16; amend. Ord. 1098-2017, passed 11-13-17; amend. Ord. 1111-2019, passed 1-14-19.)

Sec. 150-165. - Abraham Tract District.

A. *Purpose.* This District is intended to encourage large-scale development of a wide range of compatible and complimentary uses, along with uses not permitted elsewhere within the City.

B. *Permitted uses.*

(1) *Principal uses and structures generally permitted.*

- (a) Adult related businesses (subject to the provisions of Code Chapter 132, and the regulations contained in Section (D) of this ordinance).
- (b) Agencies for travel and insurance and similar services.
- (c) Airport parking.
- (d) Animal hospitals.
- (e) Aviation-related schools.
- (f) Automobile sales and service, new and used.
- (g) Automobile rental agency.
- (h) Banks, savings and loan associations and similar financial institutions.
- (i) Bar if related to restaurant within the same building or within a hotel.
- (j) Catering business.

- (k) Clinical laboratory.
  - (l) Dry cleaning and/or laundry.
  - (m) Domestic pet grooming and boarding.
  - (n) Government uses, including public utility structures and facilities.
  - (o) Gun shops and/or indoor ranges.
  - (p) Hotels.
  - (q) Medical clinics.
  - (r) Mixed-use development, excluding residential.
  - (s) Motion picture studios.
  - (t) Offices, business and professional.
  - (u) Package stores.
  - (v) Parcel delivery services.
  - (w) Pawn shops and gold buying enterprise.
  - (x) Personal and repair service establishments.
  - (y) Post office.
  - (z) Restaurants.
  - (aa) Retail stores, including membership warehouse stores.
  - (bb) Stereo/video/electronics rental, sales and/or services.
  - (cc) Storage warehouse facilities.
  - (dd) Pharmacy.
  - (ee) Medical marijuana dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school).
  - (ff) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved in conjunction with site plan approval, as specified herein.
- (2) *Accessory buildings and structures.* Uses and structures customarily accessory and incidental to specified principal uses and

structures, and which do not alter the character of the district, and which have been approved in conjunction with site plan approval

C. *Prohibited uses.*

- (1) Automotive auctions.
- (2) Educational uses, other than aviation-related schools.
- (3) Manufacturing operations or facilities.
- (4) Open air, tented, or booth-operated flea markets or any other retail/wholesale operation not contained within a business building, except as otherwise authorized by Code §§ 110-01 through 110-03.
- (5) Places of public assembly for 1,000 or more. This shall not apply to hotels and ancillary uses.
- (6) Residential uses.

D. *Adult-related business regulations.* <sup>[3]</sup>

(1) *Purpose, authority and findings.*

(a) *Purpose.* In the development and enforcement of this subsection 150-165D., "Adult-related business regulations," the City recognizes that adult-related businesses, because of their very nature, have serious objectionable characteristics and have a deleterious effect upon adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from the objectionable operational characteristics of these adult-related businesses by locating them away from residential areas and public facilities used frequently by minors, such as schools, religious facilities, parks, instructional schools serving minors, and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this subsection to:

- (i) Inhibit freedom of speech or the press; or
- (ii) Limit or restrict the content of any communicative materials, including sexually oriented materials; or
- (iii) Restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
- (iv) Deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; or
- (v) Regulate obscenity, which is regulated by general law (Chapter 847, Florida Statutes).

This subsection balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult-related businesses without limiting alternative avenues of communication. The regulations deemed necessary to control the undesirable effects arising from these businesses are set forth in this subsection. Licensing and operational regulations for these uses are in Chapter 132 of this Code.

- (b) *Authority.* This subsection is enacted pursuant to the City's home rule power to enact regulations to protect the public health, safety and general welfare of the City's residents, and Chapters 163 and 166, Florida Statutes.
- (c) *Findings.* Based on the evidence and testimony presented before the City Council, and on the findings incorporated in:
- I. "Survey of Texas Appraisers - Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);
  - II. "Crime-Related Secondary Effects - Secondary Effects of "Off-Site"] Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);
  - III. "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);
  - IV. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);
  - V. "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City's Attorney's Office, Denver, Colorado (January 1998);
  - VI. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);
  - VII. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);
  - VIII. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);
  - IX. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);
  - X. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);
  - XI. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and

XII. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005;

the City Council finds as follows:

- (i) Establishments exist or may exist within the City where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.
- (ii) Establishments exist or may exist within the City where:
  - a. The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
  - [b. Dancers, entertainers, performers, or other individuals, who, for] forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or
  - c. Lap dancing occurs.
- (iii) The activities described in subsections (c)(i) and (ii) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the City in the interest of the health, safety, and general welfare of City residents.
- (iv) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.
- (v) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.
- (vi) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.
- (vii) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.
- (viii)

The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

- (ix) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the City to prohibit certain forms of nude and seminude acts, exhibitions, entertainment, and commercial establishments at which alcoholic beverages are, or are available to be, sold or consumed.
- (x) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this subsection and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the City.
- (xi) When the activities described in subsections (c)(i) and (ii) take place in establishments within the City, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.
- (xii) When the activities described in subsections (c)(i) and (ii) are present in establishments within the City, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.
- (xiii) The establishments used for the activities described in subsections (c)(i) and (ii) are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(2) *Definitions.* The following words, terms and phrases, when used in this subsection D., shall have the meanings ascribed to them in this subsection D.(2), except where the context clearly indicates a different meaning.

*Adult bookstore/adult novelty store/adult video store* shall mean an adult-related business which offers adult material for sale or rent for commercial gain, or having such materials as a substantial percentage or significant portion of its sale or stock in trade, or an establishment with a substantial or significant portion or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, or actual sales. A substantial or significant portion of its



stock in trade shall be deemed to occur when: (1) 40 percent or 600 square feet (whichever is less) of the floor area of the establishment contains the items listed above; or (2) the items listed above comprise at least 40 percent of the value of the stock in trade of the establishment.

*Adult booth* or *booth* shall mean a small enclosed or partitioned area inside an adult-related business that is:

- (a) Designed or used for the viewing of adult material by one or more persons; and
- (b) Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

*Adult dancing establishment* shall mean an establishment where employees display or expose specified anatomical areas to others, regardless of whether the employees actually engage in dancing.

*Adult domination/submission parlor* shall mean an adult-related business specializing in bondage, sadomasochism, humiliating activities or other similar activities which depicts, describes or relates to the "specified sexual activities" or "specified anatomical areas," as defined below.

*Adult entertainment* shall mean any action intended to amuse which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing or less than completely and opaquely covering specified anatomical areas, lap dancing or similar activities.

*Adult-related business* shall mean:

- (a) Any adult theater, adult mini motion picture theater, adult bookstore/adult novelty store/adult video store, adult motel, adult domination/submission parlor, encounter studio/modeling studio, or adult dancing establishment as these uses are defined in this subsection; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.
- (b) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on adult entertainment or material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

- (c) An adult-related business shall include the entire site or premises on which the adult-related business is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (a) and (b) above are being conducted for commercial gain.
- (d) Excluded from this definition are any educational institutions, as defined herein, where the exposure of specified anatomical areas is associated with a curriculum or program.
- (e) An establishment that possesses an adult-related business license is presumed to be an adult-related business.

*Adult material* shall mean one or more of the following, regardless of whether it is new or used:

- (a) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations; recordings or other audio materials; and novelties or devices that have, as their primary or dominant theme, subject matter depicting, exhibiting, illustrating, describing, or relating to specified sexual activities or specified anatomical areas, as defined below; or
- (b) Instruments, novelties, devices, or paraphernalia, which are designed for use in connection with specified sexual activities, excluding bona fide birth control devices.

*Adult mini motion picture theater* shall mean an enclosed building (with theatre style seating or viewing booths) with a capacity of less than 50 persons regularly used for presenting adult material, for observation by patrons therein, which activity requires the exclusion of minors under Chapter 847, F.S. The viewing or adult "booth" referenced in this definition is defined as a small enclosed or partitioned area inside the theater designed or used for the viewing of adult material by one or more persons, which is accessible to all persons, regardless of whether a fee is charged for access. A "booth" shall not include a foyer through which a person can enter or exit the establishment, or a rest room.

*Adult motel* shall mean a hotel, motel, boarding house or rooming house or other place of temporary lodging presenting adult material by means of closed circuit television, for observation by patrons therein.

*Adult motion picture theater* or *adult theater* shall mean an enclosed building with a capacity of 50 or more persons regularly used for presenting adult material for observation by patrons therein, which material may not be exposed to minors under Chapter 847, F.S. Theaters designed to allow the outdoor viewing of adult material are not permitted. An establishment which has adult booths is considered to be an adult theater.

*Alcoholic beverage* shall mean any beverage containing more than one percent of alcohol by weight, measured in the manner described in § 561.01(4)(b), F.S., and successor provisions thereto.

*Day care center* shall mean a nonresidential facility that provides supervision and care of children under the age of 18 for periods of less than 24 hours a day.

*Encounter studio/modeling studio* shall mean an establishment offering nude or semi-nude encounter/modeling sessions, sessions between opposite or same sex adult individuals, nude dance/photo sessions, or sexual consultations, which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

*Establishment* shall mean the site or premises on which the adult-related business is located, including the interior of the premises, or portion of it, upon which certain activities or operations are being conducted for commercial gain.

*Instructional school* shall mean a premises or site upon which a business offers instruction for gymnastics, martial arts, dance, or any other similar skill activities.

*Lap dance or lap dancing*, also known as a "straddle dance," "face dance," "friction dancing," or "flash dance," shall mean the use by an employee, whether clothed or partially or totally nude, of a part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of an employee by a person while at the establishment. It shall be a "lap dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing a specified anatomical area. It shall also be a "lap dance" regardless of whether the "touch" or "touching" is direct or through a medium. However, incidental touching shall not constitute lap dancing.

*Massage establishment* shall mean:

- (1) Any shop, parlor, establishment or place of business wherein all of any one or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), applying such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.
- (2) Provided, however, that, for the purpose of this chapter, the term "massage establishment" shall not include any massage establishment wherein at least 50 percent of the employees on duty full time during the hours that the establishment is open for business are State of Florida licensed massage therapist or other licensed professional listed in the preceding sentence.
- (3) Nothing in this chapter shall be construed as applying to state licensed massage therapists, barbers, cosmetologists, manicurists, pedicurists, occupational therapists, physical therapists, physical therapists' assistants, midwives, practical nurses, agents, servants or employees in licensed hospitals, nursing homes or other licensed medical institutions, licensed physicians,

osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, servants or employees acting in the course of such agency, service or employment under the supervision of the licensee.

*Patron* shall mean any natural person other than an employee, operator, licensee, or governmental officer while such persons are performing duties pursuant to this Code or other law.

*School*, for purposes of this subsection, includes premises or a site upon which there is a day care center, nursery school, pre-kindergarten, elementary school, middle school, high school, or library.

*Specified anatomical areas* shall mean:

(a) Less than completely and opaquely covered:

(i) Human genitals and pubic region; or

(ii) Cleavage of the human buttocks; or

(iii) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, including the areola; this definition shall include the entire lower portion of the human female breast, but shall not include a portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* shall mean:

(a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or

(b) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse or sodomy; or

(c) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or

(d) Excretory functions as part of or in connection with the activities set forth in subsections (a)—(c).

(3) *Supplemental regulations.*

(a) *Permitted locations.* No adult-related business use shall be established, operated or maintained within the City except on property located within the Abraham Tract District. The zoning district regulations for any other zoning district in the City shall not be construed to permit the establishment, operation or maintenance of any adult-related business use. In no event shall an adult-

related business use be established, operated or maintained within the City in which a person shall be allowed to expose specified anatomical areas to public view. Except as otherwise provided by this Code, adult-related business uses may have accessory uses that are incidentally and customarily associated with the principal adult-related business use.

- (b) *Required distances.* No adult-related business use shall be established, operated or maintained within the following specified distances of any of the following uses located within the City:
  - (i) 300 feet from any other adult-related business use.
  - (ii) 500 feet from any residentially zoned district or any parcel which is used for single-family or multi-family residential use.
  - (iii) 500 feet from any religious facility.
  - (iv) 500 feet from any public or private school which caters to the instruction of children under the age of 18.
  - (v) 500 feet from any day care center or instructional school whose primary use caters to the care or instruction of children under the age of 18.
  - (vi) 500 feet from any park.
- (c) *Measurement of required distances.* The minimum required distances in subsection D.(3)(b) shall be measured by following a straight line from any portion of the building used by the adult-related business use, to the nearest point of a parcel located in the City containing one of the uses listed in subsection D.(3)(b)(ii)—(vi). The minimum required distance between adult-related business uses shall be measured by following a straight line between the respective portions of the buildings used by the two adult-related business uses.
- (d) *Survey required.* For purposes of establishing the required distances between adult-related business uses and the uses listed in subsection D.(3)(b), an applicant for a license for an adult-related business pursuant to Code Chapter 119, "Adult-Related Businesses Code," Article II. "Adult-Related Business Licensing" shall furnish a certified survey from a registered surveyor. Such survey shall indicate the distance between the adult-related business use and any of the uses listed in subsection D.(3)(b), as measured in accordance with the requirements of subsection D.(3)(c). In case of any dispute, the measurement scaled by the Planning and Zoning Director shall govern.
- (e) *Strict compliance required.* No adult-related business use shall be established, operated or maintained within the City unless it is in compliance with the Code and any other local, state, or federal law. No variance shall be granted to any requirement of this subsection D.
- (f)

*Review of applications for adult-related business uses.* Notwithstanding any other section of this Code applicable to adult-related businesses, applications to establish an adult-related business use shall be reviewed as follows:

- (i) The Planning and Zoning Director shall review all of the information submitted to determine the conformity of the application with this subsection.
- (ii) The submitted application will be reviewed for completeness within 20 business days, and any corrections, revisions or deficiencies shall be provided to the applicant within that 20-day period.
- (iii) Upon resubmittal of corrected plans, the Planning and Zoning Director shall have ten business days to review the resubmittal and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application or demands that the application be reviewed as is, without further revision.
- (iv) If the applicant fails to provide additional information requested by the Planning and Zoning Director, or respond indicating the time that the information will be provided, within 40 days of the date of the request, the application shall be deemed withdrawn by the applicant. The applicant shall be entitled to one 40-day extension of this timeframe, upon request made within the original 40-day timeframe.
- (v) The Planning and Zoning Director shall approve or deny the application within 40 days of the City's receipt of the complete application, or the date that the applicant demands review as submitted. The Planning and Zoning Director's decision shall be based upon whether the application complies with the requirements of this subsection. Written notice of the decision shall be provided to the applicant, in the form of an approval or a notice of denial. Any notice of denial shall describe the applicant's appeal rights, and be provided to the applicant within ten business days of the decision.

E. *Setbacks and floor area.*

- (1) *[Minimum setback.]* The minimum setback for all yards shall be no less than ten feet.
- (2) *Floor area limitations.* For the purposes of this subsection the floor area ratio (F.A.R.) shall be the total floor area of a building or buildings on a building site divided by the area of the site. See also Code § 150-002(C)(38). The maximum base F.A.R is no more than 1.0. Sites may be developed with F.A.R. of up to 3.0 through compliance with the Floor Area Ratio Bonus Program provided below:
  - (a) *Floor Area Bonus Program.* For a project to receive a Floor Area Ratio bonus, a development project must meet the bonus criteria herein or seek green building certification in Design Bonus Category (I). Design bonuses for additions to existing buildings are added to the existing FAR of the building; however, the proposed FAR (existing building plus addition) shall not exceed a FAR of 3.0.
  - (b) *Schedule of Floor Area Ratio Bonuses for Projects in the Abraham Tract District.*

| Element   | Amount of FAR Bonus  |
|---|--|
| Hotel units   | 0.01 per hotel room  |
| Meeting, assembly, and conference rooms hotels  | 0.01 per 500 sq. ft. of such space, not to exceed 0.25                       |
| Provision of a porte cochere  | 0.25   |
| Landscape maturity—This bonus applies to landscaping that has achieved a minimum of 50% of maximum average height at time of planting   | 0.25   |
| Inclusion of an entry plaza, when not part of a required yard or setback, occupying a minimum of 15% of the building width  | 0.25 for each 150 sq. ft. of entry plaza, maximum 0.25                       |
| Decorative gates/fences or permitted walls permitted between buildings and surrounding sites. Material composed of wrought iron or aluminum. CBS may be used with wrought iron or aluminum. However, the area of the CBS must not exceed 50% of the total area of the gate, fence or perimeter gate. Alley may be 100% CBS. | 0.25 for each 1% of fence/gate, 25 maximum. (0.25 × amount of the % = Bonus) |
| Lighting—Installation of decorative lighting  | 0.25   |
| Green Building Certification. LEED (New Construction or Major Renovation) Silver or greater, or certification by the Florida Green Building Council   | 1.0  |

- (i) The applicant must successfully register the project with the Green Building Certification Institute or the Florida Green Building Coalition, or other third party certifying agency as approved by the Planning and Zoning Director, and provide evidence of such registration.
- (ii) Applicant shall have a minimum of one LEED accredited professional, or other similarly accredited professional, on the design team. Applicant shall provide a copy of the LEED accreditation certificate or similar certification and describe the role of the LEED accredited professional on the design team.
- (iii) The applicant must provide a copy of the pertinent credit checklist indicating which credits the applicant intends to achieve along with a written narrative and detailed drawings and plans illustrating the applicant's intent to meet the prerequisites as described in the applicable LEED Rating System of FGBC Designation for the specific building type.
- (iv) Prior to the issuance of the first principal building permit the applicant shall post a performance bond equal to five percent of the total cost of the construction in order to secure performance and fulfillment of the applicant. In lieu of the bond required by this Section, the City may accept an irrevocable letter of credit from a financial institution authorized to do business in Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the City. The letter of credit or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for the certification by the Green Building Certification Institute or other nationally recognized certifying agency within one year after receiving the City's certificate of occupancy, the applicant shall either request an extension or forfeit 100 percent of the bond. The applicant, for good cause shown, may request an extension of time of up to one additional year to achieve certification. Such extension may be granted at the sole discretion of the City Council after having considered the factors and improvements necessary to achieve the requisite certification. If certification is not achieved within two years after receiving the City's certificate of occupancy, the applicant shall forfeit 100 percent of the bond to the City.

F. *Height limitations.*

- (1) Structures or portions of structures shall not exceed the height limitations provided in the Miami-Dade County Airport Height Zoning Area Map dated September 20, 2006, or as may be thereafter amended.
- (2) Notwithstanding the foregoing, all development shall be subject to review and approval by Miami-Dade County, Miami-Dade County Aviation Department, and the Federal Aviation Administration.
- (3) Notwithstanding the foregoing, no structure or portion thereof shall exceed 150 feet in height.

G. *Off-street parking and loading.*



- (1) New development shall be in compliance with Code § 150-016 Notwithstanding the foregoing, the number of spaces required for Mixed Use developments shall be 75 percent of the sum of the total spaces required for the total of the uses, if it can be demonstrated to the City Planning and Zoning Department that the individual uses have variable peak usage, otherwise, all required spaces shall be provided.
- (2) Accessory parking lots shall be constructed and designed in accordance with Code § 150-016.
- (3) Loading zones and the parking of commercial vehicles shall be arranged so as to provide safe access from driveways and public streets, to prevent interference with vehicular and pedestrian circulation of the premises, and to avoid friction with traffic passing the premises.
- (4) Off-street loading.
  - (a) Except as provided herein, below, every building or building group or part thereof, hereafter erected and having a gross floor area of more than 10,000 square feet which is occupied by commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building(s) off-street loading berths as follows:

|  |              |
|--|--------------|
| 10,000 to 24,999 square feet           | One Berth    |
| 25,000 to 59,999 square feet           | Two Berths   |
| 60,000 to 120,000 square feet          | Three Berths |
| For each additional 80,000 square feet | One Berth    |

A loading berth shall have the minimum dimensions of 12 feet in width, 35 feet in length and 14 feet of vertical clearance.

- (b) Irrespective of floor area, hotels having fewer than 200 rooms shall not be required to provide off-street loading berths. One berth shall be required for each 100 additional hotel rooms or major fraction thereof.
- (c)

Off-street loading facilities shall be properly drained to prevent runoff or damage to abutting properties or public streets, and shall not be used for any purpose other than loading and unloading. At no time shall the loading area be used for storage.

H. *Signage*. Signage shall be in accordance with Code § 150-030(G).

I. *Development Review Procedures*. An application for development review shall be submitted to the Planning and Zoning Department for processing. No construction or alterations governed by this ordinance may begin without such approval. Additional review by Miami-Dade County and Miami-Dade County Aviation may be required.

(1) *Review for projects not requiring City Council approval*. The Planning and Zoning Director and City Building Official shall review all permit applications not requiring City Council approval such as accessory and minor structures such as fences, sheds, replacement of sign faces, new signage, and exterior wall re-painting or re-roofing to ensure the improvements are in compliance with the district boundary regulations.

(2) *Projects requiring formal review by the City Council*. The following formal approval process for the City shall apply to all new construction, remodeling and renovation projects.

(a) Mandatory preliminary review meeting with City Staff and owner/developer representatives. This meeting shall be scheduled following City Staff's preliminary review of all project submittals.

(b) Applications for variances, if any, shall be submitted to the City Board of Adjustment for review and consideration in accordance with the procedures set forth in Code §§ 150-110 through 150-113.

(c) The City Zoning and Planning Board will have the responsibility to review all site and development plans and to make recommendations for modification, approval or denial to the City Council in accordance with Code §§ 150-101 and 150-102.

(d) The decisions and recommendations of the City Board of Adjustment and Zoning and Planning Board will be reviewed for final approval by the City Council in accordance with the procedures set forth in Code § 150-113.

(e) The City Council will authorize the preparation and issuance of a Development Order for each project application which has completed the Development Review Process.

J. *Requirements for Development Review*. The following shall be submitted to the Planning and Zoning Department to initiate development review:

(1) A fully completed application form.

(2) A letter of intent which generally describes the proposed development, including timing and phasing, if any.

(3) A filing fee.

(4) Five copies of the following plans and exhibits with a sheet format of 24 inches by 36 inches and five copies with a sheet format of 11 inches by 17 inches shall accompany the development permit application for preliminary review. Thereafter, the format and number of copies shall be as determined by the Planning and Zoning Department.

(a) *Existing Site Characteristics Map.* A certified land and as-built survey, no more than one year old, which specifies acreage or square footage illustrating:

- (i) Existing natural features, including, but not limited to trees and other vegetation.
- (ii) Existing buildings and other structures.
- (iii) Existing utility lines and easements.

(b) *Site Development Plan:*

- (i) A scaled (engineering 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.
- (ii) Proposed off-street parking spaces and driveways, including location, construction materials setbacks and loading zones.
- (iii) Proposed fences and walls, including location, construction material, dimensions, setbacks, and height.
- (iv) Proposed utility lines and easements.
- (v) Traffic flow patterns and the location of all curb cuts.
- (vi) A vicinity map showing all land uses within 300 feet from all property lines and all curb cuts and median cuts within 300 feet. The map may be inset and scaled accordingly. One inch equals 100 feet is recommended.
- (vii) Dumpster location(s).
- (viii) Proposed location and elevations of signs, including height, dimensions, setbacks, construction materials and color.

(c) *Landscape Plan:*

- (i) A scaled (engineering scale) drawing clearly illustrating proposed and existing trees, shrubs grass and other vegetation where required, including location, height, caliper, canopy area to be removed or spread and type of plant by both common and botanical classifications. All plans must be signed and sealed by a registered landscape architect.
- (ii) Proposed depressions and berms and other topographical features.
- (iii) Method of irrigation.

(d) *Architectural Plan:*

- (i) A scale drawing clearly illustrating all proposed building floor plans and elevations, including height, dimensions, color, surface materials and textures.
- (ii) Location of all mechanical equipment.
- (iii) Exterior façade color samples complying with the approved color palette.

(e) *Tabular Summary:*

- (i) Total gross area and net site area.
- (ii) Proposed floor area by type of use and total gross floor area.
- (iii) Floor area ratio, base and bonus calculations.
- (iv) Area and percentage distribution of total gross project site, including areas proposed for landscaped open space, impervious surfaces and building coverage.
- (v) Number, size and ratio of off-street parking spaces.

(f) *Drainage Plan:*

- (i) Location and square footages of all buildings, roads, parking lots, driveways, green areas, and other significant pervious and impervious areas.
- (ii) Existing elevations at the corners and center of proposed buildings, as well as proposed finished floor elevations.
- (iii) Sufficient elevations and calculations to show retention of storm water on the site.

(5) The Planning and Zoning Director shall have the authority to waive any of the foregoing requirements not appropriate to a specific development permit application and/or to require any additional information deemed relevant to the specific application.

(6) Disclosure of ownership. Each application shall disclose the identity of the property, all property owners and/or developer(s). If a representative of the owner/developer files the application, the agency relationship shall also be disclosed and clearly stated and satisfactory evidence of such relationship presented. In the case of joint ownership, all owners shall consent to the application. Where the property is under contract for purchase, the owner must consent to the application.

K. *Exemptions.* The following applications for development, redevelopment of building permit shall be exempt from the application of this ordinance;

- (1) Any building or structure for which final site plan approval has been obtained prior to the enactment of this ordinance.
- (2)

A project determined by the Planning and Zoning Director to be of a temporary nature such that meeting the intent of the ordinance would not be practical.

- (3) The City Administrative Staff shall retain the authority to exempt any proposed development or redevelopment project for this District that is being proposed for any existing structure or structures from the application of any or all of the provisions of Code § 150-165. This exemption shall not be applicable to development or redevelopment projects in the District proposed for vacant or "ground up" construction which retains the continuing availability of the City variance process for specific relief from the provisions of this Code section.

L. *Fees.*

- (1) Each application filed with the City shall be accompanied by the payment of a fee, which shall be determined by City, based on the scope of the project and the expenses to be incurred by the City in processing and reviewing the application for development.
- (2) The applicant shall reimburse the City for the amount of any fees or other costs incurred by the City in reviewing or processing any application.

(Ord. 1038-2012, passed 8-27-12; Ord. 1050-2013, passed 2-25-13; amend. Ord. 1098-2017, passed 11-13-17)

*Footnotes:*

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**Cross reference**— *Adult-related Businesses Code, ch. 119.*

Sec. 150-166. - Airport Golf District.

A. *Purpose.* The purpose of the Airport Golf District is to promote efficiency of land use, decrease vehicular traffic, provide convenience, and establish a harmonious mix of uses within a pedestrian friendly environment. This District is designed to encourage a strong base of retail, service and office uses coupled with the provision of complementary residential uses, all within acceptable walking distances. This is accomplished by providing floor area bonuses for mixed use development to lessen dependence of vehicular traffic.

B. *Permitted uses.*

(1) *Principal uses and structures permitted generally.*

- a) Agencies for travel and insurance and similar services\*.
- b) Automobile rental agencies\*.
- c) Banks, savings and loan associations and similar financial institutions.

- d) Bars and package stores\*.
- e) Catering business\*.
- f) Cultural or recreational facilities such as urban plazas, health and athletic clubs, theatres, libraries, art galleries and museums.
- g) Domestic pet grooming\*.
- h) Hotels, including extended-stay hotels\*\*.
- i) Mixed-use development and structures.
- j) Offices, business and professional.
- k) Parking garages, subject to screening requirements.
- l) Personal and repair services, such as beauty and barber shops, medical clinics, etc.\*.
- m) Pharmacy, subject to the provisions of Code § 150-166(B)(2), herein.
- n) Post office, public or private\*.
- o) Medical marijuana dispensary (with a minimum distance of 500 feet from real property that comprises a public or private elementary school, middle school, or secondary school), subject to the provisions of Code § 150-166(B)(2), herein.
- p) Multi-family residential uses.
- q) Restaurants\*.
- r) Retail uses, subject to the provisions of Code § 150-166(B)(2), herein.
- s) Structures and uses relating to operation of public utilities and requiring location within the district to serve it or neighborhood districts.
- t) Structures and uses required for necessary performance or governmental functions.
- u) Veterinary clinics without boarding\*.
- v) Other enterprises or businesses which are similar to enterprises or businesses enumerated herein, which have been approved by the City Council.

\* Use permitted within a building with other permitted uses, but not as a stand-alone use.

\*\* For purposes of this section, an extended-stay hotel shall be defined as follows: Any public lodging establishment that contains units with kitchen and housekeeping facilities. Units are typically rented or leased for a period of six months or less. The street address of the establishment may not be used by occupants as a place of residence for any reason.

(2) *Permissible principle uses and structures; limitations as to location.*

a) Any retail service establishments shall be limited to the ground floor of principal structures.

b) Any retail service establishments shall front on pedestrian portions of the street right-of-way, or on other pedestrian open space areas with public access from streets, and shall occupy at least 50 percent of the ground floor street frontage.

(3) *Accessory uses and structures.* Uses and structures customarily accessory and incidental to specified principal uses and structures, and which do not alter the character of the district, and which have been approved in conjunction with site plan approval.

C. *Prohibited uses.*

1) Adult related business.

2) Any large- or medium-scale repair or service facilities.

3) Automotive auctions, sales and service facilities.

4) Clinical laboratories.

5) Establishments dealing in used merchandise other than memorabilia and/or antiques.

6) Free standing convenience store.

7) Funeral homes.

8) Gasoline or other fueling station.

9) Gun shop or gun range.

10) Industrial uses of any nature.

11) Open air, tented, or booth-operated flea markets or any other retail/wholesale operation not contained within a business building, except as otherwise allowed by §§ 110-01 through 110-03.

12) Pawn shop.

13) Storage facilities.

D. *Setbacks, density, and bulk regulations.*

(1) *Minimum setbacks.* The minimum setback for front, rear, and corner side yards shall be ten feet. The minimum setback for interior side yard(s) shall be no less than five feet.

(2)

*Floor area limitations.* For the purpose of this subsection the floor area ratio (F.A.R.) shall be the total floor area of a building or buildings on a building site divided by the area of the site. Accessory parking structures or garages shall not be considered as floor area for the purposes of this section. The maximum base F.A.R. is no more than 1.0. Sites may be developed with F.A.R. of up to 2.0 through compliance with the Floor Area Ratio Bonus Program provided below:

- a. *Floor area bonus program.* For a project to receive a floor area ratio bonus, a development project must meet the bonus criteria herein or seek green building certification. Design bonuses for additions to existing buildings are added to the existing FAR of the building; however, the proposed FAR (existing building plus addition) shall not exceed a FAR of 2.0.
- b. *Schedule of floor area ratio bonuses for projects in the Airport Golf District.*

| Element  | Amount of FAR Bonus                                    |
|--|--|
| Hotel units  | 0.01 per hotel room                                    |
| Meeting, assembly, and conference rooms within hotels  | 0.01 per 500 sq. ft. of such space, not to exceed 0.25 |
| Mixed-use development  | 1.0  |
| Construct Bus turn-out lane  | 1.0  |
| Green Building Certification. LEED (New Construction or Major Renovation) Silver or greater, or certification by the Florida Green Building Council. | 1.0  |

- c. *Procedure for securing Green Certification by City.*

(1) The applicant must successfully register the project with the Green Building Certification Institute or the Florida Green Building Coalition, or other third party certifying agency as approved by the Planning and Zoning Director, and provide evidence of such registration.



- (2) Applicant shall have a minimum of one LEED accredited professional, or other similarly accredited professional, on the design team. Applicant shall provide a copy of the LEED accreditation certificate or similar certification and describe the role of the LEED accredited professional on the design team.
- (3) The applicant must provide a copy of the pertinent credit checklist indicating which credits the applicant intends to achieve along with a written narrative and detailed drawings and plans illustrating the applicant's intent to meet the prerequisites as described in the applicable LEED Rating System of FGBC Designation for the specific building type.
- (4) Prior to the issuance of the first principal building permit the applicant shall post a performance bond equal to five percent of the total cost of the construction in order to secure the performance and fulfillment of the applicant. In lieu of the bond required by this section, the City may accept an irrevocable letter of credit from a financial institution authorized to do business in the State of Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the City. The letter of credit or escrow shall be in the same amount of the bond if it were posted. If the project fails to meet the criteria required for the certification by the Green Building Certification Institute or other nationally recognized certifying agency within one year after receiving the City's certificate of occupancy, the applicant shall either request an extension or forfeit 100 percent of the bond. The applicant, for good cause shown, may request an extension of time of up to one additional year to achieve certification. Such extension may be granted at the sole discretion of the City Council after having considered the factors and improvements necessary to achieve the requisite certification. If certification is not achieved within two years after receiving the City's certificate of occupancy, the applicant shall forfeit 100 percent of the bond to the City.
- (5) Residential density. The maximum residential density shall be 24 dwelling units per net acre. In the instance of mixed-use development, the minimum residential density shall be 12 dwelling units per net acre.

E. *Height limitations.*

- (1) Structures or portions of structures shall not exceed the height limitations provided in the Miami-Dade County Airport Height Zoning Area Map dated September 20, 2006, or as may be thereafter amended.
- (2) Notwithstanding the foregoing, no structure or portion thereof shall exceed five stories or 70 feet in height.
- (3) However, in accordance with Code § 1.04(G) of the Miami Springs Charter, any building that includes more than two residential dwelling units shall not exceed three stories and a maximum of 40 feet in height.
- (4) Notwithstanding the foregoing, all development exceeding an elevation of 35 feet above mean sea level shall be subject to review and approval by Miami-Dade County Aviation Department.

F. *Off-street parking and loading.*

- (1) New development shall be in compliance with Code § 150-016. Notwithstanding the provisions of said Code section, the minimum number of required parking spaces for multi-family dwellings, townhouses and extended-stay hotels shall be:

|                        |                     |
|------------------------|---------------------|
| Studio                 | 1.0 space Per Unit  |
| One Bedroom            | 1.5 space Per Unit  |
| Two Bedroom            | 2.0 spaces Per unit |
| Three or more Bedrooms | 2.5 spaces Per Unit |
| Extended-Stay Hotels   | 1.5 spaces Per Unit |

In addition to the aforesaid minimum number of spaces, an additional 10 percent of the total number of spaces shall be provided as guest parking spaces.

Further, notwithstanding the provisions of Code § 150-016, the number of spaces required for mixed use developments shall be 75 percent of the sum of the total spaces required for the total of the uses if the developer can demonstrate to the City Planning and Zoning Department that the individual uses have variable peak usage, otherwise, all required spaces shall be provided.

- (2) Accessory parking lots shall be constructed and designed in accordance with Code § 150-016.
- (3) Loading zones and the parking of commercial vehicles shall be arranged so as to provide safe access from driveways and public streets, to prevent interference with vehicular and pedestrian circulation of the premises, and to avoid friction with traffic passing the premises.
- (4) Off-street loading.
- (a)

Except as provided herein, below, every non-residential building or building group or part thereof, hereafter erected and having a gross floor area of more than 10,000 square feet which is occupied by commercial uses or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building(s) off-street loading berths as follows:

|                               |              |
|-------------------------------|--------------|
| 10,000 to 24,999 square feet  | One Berth    |
| 25,000 to 59,999 square feet  | Two Berths   |
| 60,000 to 120,000 square feet | Three Berths |
| More than 120,000 square feet | Four Berths  |

A loading berth shall have the minimum dimensions of 12 feet in width, 35 feet in length and 14 feet of vertical clearance.

(b) Regardless of the total floor area, hotels having fewer than 200 rooms shall not be required to provide off-street loading berths. One berth shall be required for each 100 additional hotel rooms or major fraction thereof.

(c) Off-street loading facilities shall be properly drained to prevent runoff or damage to abutting properties or public streets, and shall not be used for any purpose other than loading and unloading. At no time shall the loading area be used for storage.

G. *Signage.* Signage shall be in accordance with Code § 150-030(H).

H. *Development review procedures.* An application for development review shall be submitted to the Planning and Zoning Department for processing and approval. No construction or alterations governed by this ordinance may begin without such approval. Additional review by Miami-Dade County and Miami-Dade County Aviation Department may be required.

(1) *Review for projects not requiring City Council review and approval.* The Planning and Zoning Director and City Building Official shall review all permit applications to determine if City Council review or approval is required. Those permit applications for accessory and minor structures such as fences, sheds, replacement of sign faces, new signage, and exterior wall re-painting or re-roofing shall not require City Council review or approval, but shall be reviewed by Staff to ensure the improvements are in compliance with the district boundary regulations.

(2) *Projects requiring formal review by the City Council.* The following formal approval process for the City shall apply to all new construction, remodeling and renovation projects.

- (a) Mandatory preliminary review meeting with City Staff and owner/developer representatives. This meeting shall be scheduled following City Staff's preliminary review of all project submittals.
- (b) Applications for variances, if any, shall be submitted to the City Board of Adjustment for review and consideration in accordance with the procedures set forth in Code §§ 150-110 through 150-113.
- (c) The City Zoning and Planning Board will have the responsibility to review all site and development plans and to make recommendations for modification, approval or denial to the City Council in accordance with Code §§ 150-101 and 150-102.
- (d) The decisions and recommendations of the City Board of Adjustment and Zoning and Planning Board will be reviewed for final approval by the City Council in accordance with the procedures set forth in Code § 150-113.
- (e) The City Council will authorize the preparation and issuance of a Development Order for each project application which has completed the Development Review Process.

I. *Requirements for development review.* The following shall be submitted to the Planning and Zoning Department to initiate development review:

- (1) A fully completed application form.
- (2) A letter of intent which generally describes the proposed development, including timing and phasing, if any.
- (3) A filing fee.
- (4) Five copies of the following plans and exhibits with a sheet format of 24 inches by 36 inches and five copies with a sheet format of 11 inches by 17 inches shall accompany the development permit application for preliminary review. Thereafter, the format and number of copies shall be as determined by the Planning and Zoning Department.
  - (a) *Existing site characteristics map.* A certified land and as-built survey, no more than one year old, which specifies acreage or square footage illustrating:
    - (1) Existing natural features, including, but not limited to trees and other vegetation.
    - (2) Existing buildings and other structures.
    - (3) Existing utility lines and easements.
  - (b) *Site development plan:*
    - (1)

A scaled (engineering 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.

- (2) Proposed off-street parking spaces and driveways, including location, construction materials setbacks and loading zones.
- (3) Proposed fences and walls, including location, construction material, dimensions, setbacks, and height.
- (4) Proposed utility lines and easements.
- (5) Traffic flow patterns and the location of all curb cuts.
- (6) A vicinity map showing all land uses within 300 feet from all property lines and all curb cuts and median cuts within 300 feet. The map may be inset and scaled accordingly. One inch equals 100 feet is recommended.
- (7) Trash receptacle location(s).
- (8) Proposed location and elevations of signs, including height, dimensions, setbacks, construction materials and color.

(c) *Landscape plan:*

- (1) A scaled (engineering scale) drawing clearly illustrating proposed and existing trees, shrubs grass and other vegetation where required, including location, height, caliper, canopy area to be removed or spread and type of plant by both common and botanical classifications. All plans must be signed and sealed by a registered landscape architect.
- (2) Proposed depressions and berms and other topographical features.
- (3) Method of irrigation.

(d) *Architectural plan:*

- (1) A scale drawing clearly illustrating all proposed building floor plans and elevations, including height, dimensions, color, surface materials and textures.
- (2) Location of all mechanical equipment.
- (3) Exterior façade color samples complying with the approved color palette.

(e) *Tabular summary:*

- (1) Total net site area.
- (2) Proposed floor area by type of use and total gross floor area.
- (3) Floor area ratio, base and bonus calculations.
- (4)

Area and percentage distribution of total gross project site, including areas proposed for landscaped open space, impervious surfaces and building coverage.

(5) Number, size and ratio of off-street parking spaces.

(f) *Drainage plan:*

(1) Location and square footages of all buildings, roads, parking lots, driveways, green areas, and other significant pervious and impervious areas.

(2) Existing elevations at the corners and center of proposed buildings, as well as proposed finished floor elevations.

(3) Sufficient elevations and calculations to show retention of storm water on the site.

(5) The Planning and Zoning Director shall have the authority to waive any of the foregoing requirements not appropriate to a specific development permit application and/or to require any additional information deemed relevant to the specific application.

(6) Disclosure of ownership. Each application shall disclose the identity of the property, all property owners and/or developer(s). If a representative of the owner/developer files the application, the agency relationship shall also be disclosed and clearly stated and satisfactory evidence of such relationship presented. In the case of joint ownership, all owners shall consent to the application. Where the property is under contract for purchase, the owner must consent to the application.

J. *Exemptions.* The following applications for development, redevelopment of building permit shall be exempt from the application of this ordinance;

(1) Any building or structure for which final site plan approval has been obtained prior to the enactment of this ordinance.

(2) A project determined by the Planning and Zoning Director to be of a temporary nature such that meeting the intent of the ordinance would not be practical.

K. *Fees.*

(1) Each application filed with the City shall be accompanied by the payment of a fee, which shall be determined by City, based on the scope of the project and the expenses to be incurred by the City in processing and reviewing the application for development.

(2) The applicant shall reimburse the City for the amount of any fees or other costs incurred by the City in reviewing or processing any application.

( Ord. 1059-2013, passed 11-12-13; amend. Ord. 1098-2017, passed 11-13-17.)

## Chapter 118 USER CHARGE FOR USE OF EXCESS POLICE SERVICES<sup>1</sup>

### Sec. 118-01. Short title.

This chapter shall be known as the "excess police services" chapter.

(Ord. 658-82, passed 4-26-82)

### Sec. 118-02. Definitions.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*Average number of police services.* The number of police services, together with the contingent call factor established by the City Council as a reasonable number of police services available to any single business entity on a business property prior to imposition of an excess police service user charge during a fiscal year.

*Business or business entity.* One commercial business enterprise (person, partnership, or corporation) holding one or more occupational licenses issued by the City or Metropolitan Dade County with office facilities physically located on lands within the City.

*Business location or property.* Commercial, industrial, and multi-residential zoned lot within the City, whose use for business purposes requires the user to apply for and be granted one or more occupational licenses.

*Contingent call factor.* A factor to be established by the City Council to adjust the average number of police services or calls to business properties for the purpose of establishing the reasonable number of police services applicable to any business property.

*Excess police calls or excess police services.* Police response to a business location for the benefit of the owner or persons occupying the business property, in excess of the number of responses determined by the City Council to be reasonable for a business entity generally within the City.

*Fiscal year.* The City fiscal year beginning October 1 through September 30 of each calendar year.

*Notice of billing.* A written notice separately prepared by the City or printed upon water bills for the purpose of notifying the owner or tenant or occupational licensee of charges for excess police services, including a notice of delinquent payment for excess police services.

*Occupational license.* Licenses issued by the City pursuant to chapter 113 of this Code and the ordinances of Metropolitan Dade County on a "county-wide" basis, to a business entity, excepting those licenses for individual business machines, vending machines, or other coin-operated machines, bowling alleys, and weighing machines.

*Police response.* The first case investigation provided by the police department in response to a request originating from a business property or relating to an occurrence on a business property within the City. Subsequent investigations of any case shall be included as part of the original police response, notwithstanding the number of appearances on the property benefitted thereby.

*Police response beyond the control and prevention of business management.* Police response resulting from negligent or careless acts of persons not involved in the business activity, persons who become sick or injured on

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<sup>1</sup>**Statutory reference**—Authority to impose user charges on fees, see F.S.A. § 166.201.

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the business premises, bomb threats, criminal acts or attempted criminal acts including vandalism and criminal mischief, fires and rescues, assistance to other police officers and agencies, or similar acts which do not result from the nature of the business, lack of security, improper management, or other similar causes beyond the control and prevention of the business management.

*Property. See business location.*

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-03. Declaration of need and necessity.**

The City Council, having determined that some businesses unreasonably use police services as a result of their lack of security, lack of management, or are of a nature that they require police service in excess of the average police service requirement of businesses generally within the City, resulting in the City being required to maintain police services specially benefiting the property occupied by these businesses, declares that the cost of excess police service should be borne by the excess business user and the business property benefitted thereby. It is the intent of the City Council to encourage business management practices tending to increase security for persons and property on the business property such as utilization of guards, electronic security systems, lighting, reduction of drunkenness, use of advice and counsel from the City police experts as to improvement of security requirements, and other similar activities.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-04. Determination of average number of police services available.**

The City Council shall establish by resolution the average number of police services available to all business entities within the City during a fiscal year. The average number of police services may be increased or decreased by the City Council by resolution after public hearing. In determining the average number of police services available to businesses generally, the City Council shall take into consideration the number of contiguous business parcels or lots occupied by a single business entity, and the number of occupational licenses issued to businesses located thereon. The resolution shall set forth a contingent call factor and other criteria necessary from time to time to insure an equitable determination of the average number of police services available to any single business entity.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-05. User charge established.**

The City Council does hereby establish a user charge for the use of police services by all business entities holding or required to hold occupational licenses in the City, for use of each police service in excess of the average number of police services applicable to business entities generally within the City during any fiscal year. A police service user charge shall be chargeable for each police service after the extension of the average number of police services generally available to licensed businesses during the fiscal year.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-06. Amount of user charge.**

The City Council shall establish by resolution the amount of the excess police user charge for use of excess police services by businesses. The excess police service user charge shall approximate the budgeted cost of police services for the fiscal year applicable for all businesses generally.



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(Ord. 658-82, passed 4-26-82)

**Sec. 118-07. Responsibility of owners and occupational licensees.**

It shall be the responsibility of each owner and occupational licensee benefitted by the extension of excess police services, to pay the user charge established by resolution of the City Council in the manner provided herein.

(Ord. 658-82, passed 4-26-82)

Cross reference(s)—Penalty, § 10-99.

**Sec. 118-08. Notice of police response; procedure.**

- (A) Police response to any business property shall include a determination as to whether or not the police service was required as a result of causes beyond the control and prevention of the business management.
- (B) The owners of business properties, occupational licensees, or the effected tenant receiving more than six police responses resulting from causes within the control and prevention of the business management shall be mailed a courtesy warning notice as to each additional police response. Failure to receive a warning notice shall not constitute grounds for nonpayment.
- (C) Notice of police response shall include a statement of the total number of police responses as determined by the City Manager available to the business entities occupying the property benefitted. In addition the notice shall show the number of police responses benefiting the property to date.
- (D) The owner of business properties, occupational licensees, or effected tenants of multifamily property receiving police services in excess of the average number of police services established by the City Council during any fiscal year shall be mailed a notice of excess police service incurred and a notice of billing.

(Ord. 658-82, passed 4-26-82)

**Sec. 118-09. Form of notice of excess police service.**

The owner of each business property, tenant thereof, or occupational licensee located thereon, upon receiving the benefit of excess police service shall be notified of the following information.

- (A) Time and date of the excess police service.
- (B) Nature of the excess police service.
- (C) Location and legal description of the property benefitted by the excess police service.
- (D) The name of the business occupying the property and the occupational certificate number thereof.
- (E) The amount of the excess police service.
- (F) The date when the excess police service user charge is payable.

(Ord. 658-82, passed 4-26-82)

**Sec. 118-10. Notice of billing.**

The City Manager shall require a notice of billing for fees charged for extension of excess police services to be mailed to the owner or tenant or occupational licensee of the property specially benefitted thereby at the address of the licensed business and to any address of the owner requested by the owner to be carried on the

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records of the City. Billing for excess police services may be included on water bills tendered by the City in lieu of any other notice of billing. The bills shall separately show the amount of charge for excess police services. The owners or tenants or occupational licensees of all business properties within the City shall advise the chief of police of any change in ownership or occupancy within ten days of the change, otherwise notice as provided herein shall be deemed sufficient notice pursuant to this chapter.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-11. Payment.**

All payments for excess police services shall be made to the finance department of the City within 30 days after billing.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-12. Waiver of user charge.**

The City Council, upon good cause shown and after a public hearing, may waive an excess police service user charge or charges if it appears from sworn testimony that any police service extended to the business entity was not required as a result of the nature or type of business, lack of security, improper management, or other cause beyond the control and prevention of the business management. The following shall not constitute grounds for waiver.

- (A) Drunkenness occurring at businesses serving alcoholic beverages.
- (B) Rowdiness and riotous activity at businesses catering to the assembly of more than five persons at any time.
- (C) Pilferage.
- (D) Violent argument between the business employees and customers.
- (E) Request for police assistance relating to matters arising out of the management and operation of the business.
- (F) Acts arising from the nature and type of business carried out on the premises.
- (G) Other similar types of occurrences permitted by the business management to occur on the business premises which could be prevented by management control or practices.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-13. Occupational licenses.**

No occupational license shall be issued to any business on any business property within the City limits unless the charges for excess police service benefiting the property have been paid during the previous license year, subject to the procedural requirements of § 113-10.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-14. Payment of fees; penalty for delinquencies.**

All fees for excess police services shall be paid as provided by this chapter. In the event fees for services shall not be paid within 30 days after billing, notice of delinquent payment shall be mailed by certified mail to the owner

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of the property benefitted by the service. All delinquent fees shall bear interest from the date of delinquency at the rate of 15 percent per annum. Failure to make payment in full within ten days thereafter shall be deemed prima facie evidence of a delinquency or default of payment and the City shall do the following.

- (A) Cause the occupational license issued to the business or businesses located on the premises to be revoked in accordance with the provisions of this Code. Nonpayment shall constitute grounds for revocation of the occupational license pursuant to § 113-10(A)(7).
- (B) All delinquent fees for excess police services are hereby made a lien on the lands benefitted by the excess police services of the City. Notice of the lien shall be mailed by certified mail to the owner of the property benefitted at the property, and courtesy notices may be mailed to other addresses of the owner appearing in the records of the City. The lien on the property benefitted shall be certified and filed with the clerk of the circuit court of the county in the manner provided for liens in general. The lien for services, together with interest, reasonable attorneys fees, and penalties allowed by law, shall be collected as other municipal taxes and liens are collected and enforced and may be foreclosed in the manner provided by law.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-15. Appeal.**

- (A) Any firm, person, corporation or property owner who disputes the imposition or amount of any fee for excess police services billed to them shall have the right of appeal to the City Council. Appeals shall be taken by filing a notice of appeal with the City Clerk within 14 days after the lien is mailed. The City Council shall hold a hearing on the appeal at any time after five days notice to the appellant. The appellant and the chief of police shall be permitted to submit any evidence under oath as may be necessary and proper. The decision of the City Council shall be either of the following.
  - (1) To affirm the imposition of the excess police service charge and lien for excess police services on the property benefitted thereby. In this event, the City may exercise any remedies provided by law for collection thereof.
  - (2) To grant the appeal. In this event, the fee shall be canceled of record and any lien imposed in relation thereof, satisfied.
- (B) The action of the City Council shall be final.

(Ord. 658-82, passed 4-26-82)

### **Sec. 118-16. Public nuisance; abatement.**

Failure to pay any excess police service user fee is declared to be unlawful. In addition, continued failure to pay for excess police services in violation of the provisions of this chapter is deemed a public nuisance and may be abated by the City as provided by law.

(Ord. 658-82, passed 4-26-82)

Cross reference(s)—Penalty, § 10-99.

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**Sec. 118-17. Rules and regulations.**

The City Manager may promulgate any rules, regulations, terms, and conditions as shall be reasonably necessary for the administration of this chapter. All rules and regulations shall be adopted by resolution of the City Council.

(Ord. 658-82, passed 4-26-82)









ROBERT PERSHING WAPLOW  
FEBRUARY 1893 - JULY 11, 1984





JANE GOODALL













