

MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: February 17, 2016



SUBJECT: **LAND USE AND DEVELOPMENT COMMITTEE MEETING OF FEBRUARY 17, 2016**

A meeting of the Land Use and Development Committee has been scheduled for February 17, 2016 at 3:00 p.m. in the City Commission Chambers.

ACTION ITEMS

- 1. Discussion Regarding A Proposed Zoning Ordinance Amendment To Allow A 'Hall For Hire' As A Conditional Use Within Existing Religious Institutions Located Within The Museum Local Historic District And In The RM-2 Zoning District.**
(Returning from the January 20, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
December 9, 2015 City Commission Meeting, Item C4A)

DISCUSSION ITEMS

- 2. Annual Evaluation of Parking Impact Fee Structure.**
(Returning from the January 20, 2016 LUDC Meeting
Sponsored By City Commission
September 17, 2014 City Commission Meeting, Item R7E)
- 3. Proposed Revisions To Chapter 126 Of The Land Development Regulations Of The City Code, Pertaining To Landscaping And Minimum Standards For The Landscaping Of Private Properties And Adding A Requirement For A Tree Survey Prior To The Issuance Of A Demolition Permit.**
(Returning From the January 20, 2016 LUDC Meeting
Sponsored By Commissioner Joy Malakoff
June 10, 2015 City Commission Meeting, Item C4I)
- 4. Discussion Regarding The City of Miami Beach's Building Permit Application Process.**
(Returning from the January 20, 2016 LUDC Meeting
Sponsored by Commissioner Ricky Arriola
January 13, 2016 City Commission Meeting, Item C4E)

VERBAL REPORTS

5. **Ordinance Amending Height and Setbacks for Mixed-Use Development in the Sunset Harbour Neighborhood.**
(Returning from the January 20, 2016 LUDC Meeting
Sponsored by Commissioner Joy Malakoff
January 13, 2016 City Commission Meeting, Item C4F)
4 p.m. Time Certain
6. **Discussion Regarding A Complete Review of Sign Ordinances.**
(Sponsored by Commissioner Ricky Arriola
February 10, 2016 City Commission Meeting, Item C4G)
7. **Discussion Regarding Short Term Rentals in North Beach.**
(Sponsored by Commissioner Michael Grieco
January 13, 2016 City Commission Meeting, Item C4H)
8. **Proposed Ordinance Setting Forth Demolition Procedures For All Single Family Homes, Regardless of the Year of Construction.**
(Sponsored by Commissioner Joy Malakoff
February 10, 2016 City Commission Meeting, Item C4J)
9. **CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment.**
(Sponsored by Commissioner Michael Grieco
February 10, 2016 City Commission Meeting, Item R9F)
10. **Discussion Pertaining to a Proposed Ordinance Amendment to Create Operational Regulations for Alcoholic Beverage Establishments Adjacent to the Palm View and West Avenue Residential Areas.**
(Sponsored by Commissioner Joy Malakoff
February 10, 2016 City Commission Meeting, Item R5F)

2016 Meeting Schedule

Wednesday March 30, 2016

Wednesday April 20, 2016

Wednesday May 18, 2016

Wednesday June 15, 2016

Wednesday July 20, 2016 at 2 p.m.

Wednesday September 21, 2016

Wednesday October 26, 2016 at 2 p.m.

Wednesday November 16, 2016

Monday December 12, 2016

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COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager *NLM/SLET*

DATE: February 17, 2016

SUBJECT: **Discussion Regarding A Proposed Zoning Ordinance Amendment To Allow A 'Hall For Hire' As A Conditional Use Within Existing Religious Institutions Located Within The Museum Local Historic District And In The RM-2 Zoning District.**

HISTORY

On December 9, 2015, at the request of Commissioner Joy Malakoff, the City Commission referred this request to the Land Use and Development Committee (Item C4A). The item was first placed on the January 20, 2016 Land Use Committee agenda, and continued to a date certain of February 17, 2016.

ANALYSIS

The RM-2 residential multifamily, medium intensity district is designed for medium intensity multi-family residences. The main permitted uses in the RM-2 district are single-family detached dwellings, townhomes, apartments, apartment-hotels, and hotels. The following are 'Conditional Uses' within the RM-2 zoning district:

- Adult Congregate Living Facility;
- Day Care Facility;
- Nursing Home;
- Stand-alone Religious Institutions;
- Private And Public Institutions;
- Schools;
- Commercial or Noncommercial Parking Lots And Garages;
- Accessory Neighborhood Impact Establishment.

Temple Emanue-el, located at 1701 Washington Avenue, was built in 1947 as a religious institution. In 1975 an activity center was constructed as an addition on the north side of the property. The subject property is located in the RM-2 zoning district and the structure is classified as 'contributing' and is located within the boundaries of the Museum Local Historic District.

The following definition of religious intuition in section 114.1 of the city code allows for catering of certain types of events, but does not allow for a hall for hire use for private events not covered in the definition:

Religious institution means a use where an establishment, organization or association conducts religious prayer or activity that is open to members and/or the general public, and may be accompanied by accessory uses customarily associated with religious institutions such as, but not limited to, education classes, youth centers, day care, offices, and rooms for licensed catering of life cycle or other gatherings or celebrations (e.g., weddings, confirmations, and coming-of-age events). A group privately assembling for worship, prayer or religious service in a private home or dwelling in which at least one member of the group resides, is not a religious institution, even if life cycle rituals are included in the service, including weddings, confirmations, and coming-of-age (such as bar or bat-mitzvah) observances and meals accompany the service.

A proposal has been put forward by Temple Emanue-el to expand the type of public and private events allowed on the property. In order to accomplish this, the code would need to be amended in order to allow for a hall-for-hire use within the RM-2 zoning district.

An option for accommodating this request would be to add a 'hall-for-hire' to the list of conditional uses in the RM-2 district for properties located within the Museum Historic District (see attached map illustrating the boundaries of this area). Such an amendment would not be limited to a single piece of property, and would give the operators of Temple Emanue-el latitude to accommodate non-religious events and meetings in the attached accessory structure. Further, as the proposed hall-for-hire use would require the review and approval of the Planning Board, appropriate intensities of use, as well operational safeguards would be at the discretion of the Planning Board.

If this, or a similar option were pursued, in order to ensure that a future hall-for-hire use is compatible with the medium scale, residential character of the immediate geographical area, the Administration recommends the following as part of any proposed code amendment:

- The prohibition of dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, open air entertainment establishments and outdoor music (including background music), proposed to be operated on a permanent basis.
- Stand-alone bars and alcoholic beverage establishments, not functioning as part of a food related event, shall be prohibited.

UPDATE

Since the last Land Use Committee meeting, representatives of Temple Emanue-el have indicated that they will be reaching out to the residential structures to the immediate north and east of Temple Emanue-el. This public outreach effort is expected to include meetings with all adjacent residents to reach a balanced approach.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the matter and provide appropriate policy direction.

JLM/SMT/TRM/TUI

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**RM-2 ZONING WITHIN THE
MUSEUM HISTORIC DISTRICT**

GU

CD-3

DADE BLVD

22ND ST

23RD ST

GU

COLLINS AVE

PARK AVE

21ST ST

WASHINGTON AVE

CD-3

20TH ST

RM-2

LIBERTY AVE

19TH ST

CCC

CD-2

18TH ST

RM-3

WASHINGTON AVE

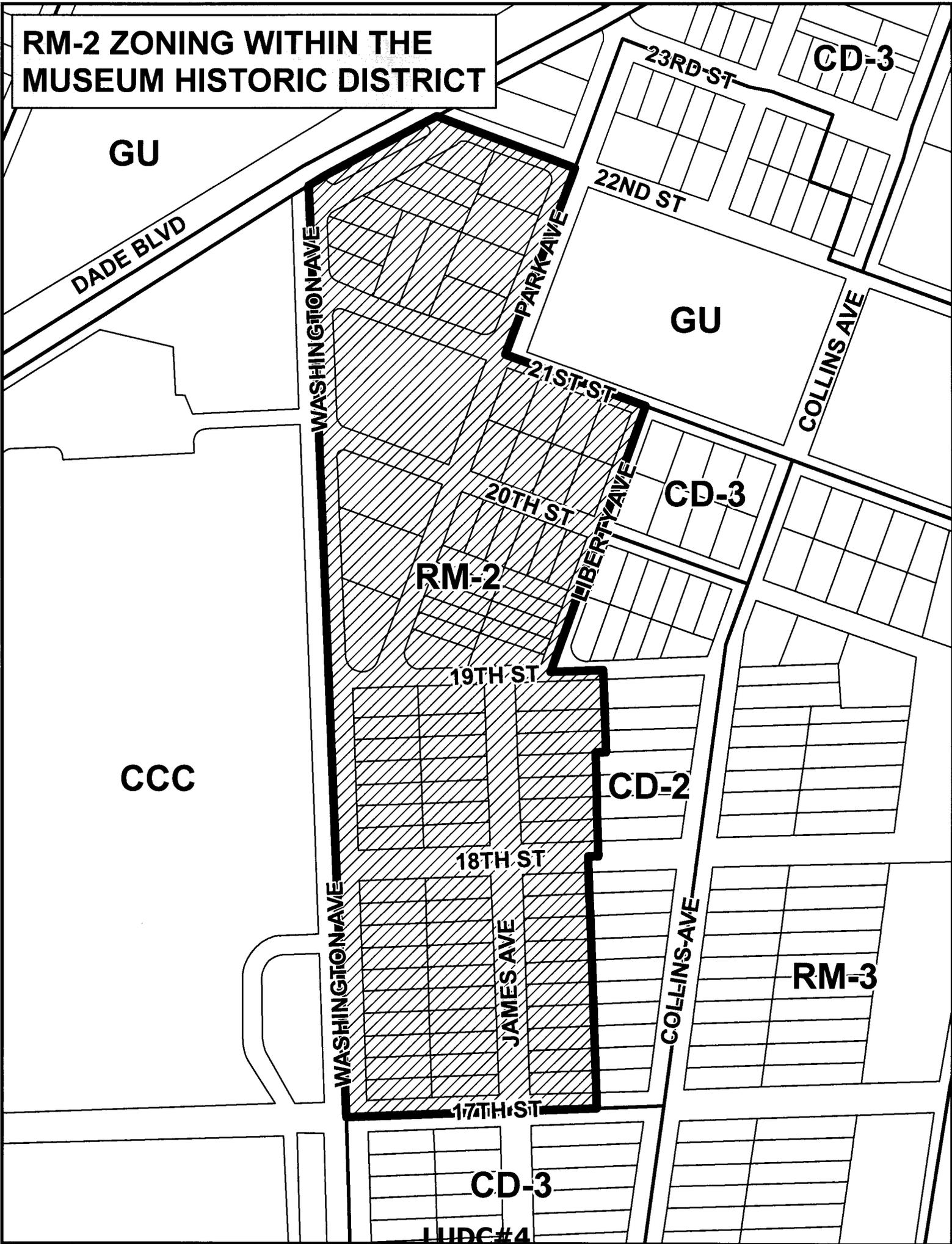
JAMES AVE

COLLINS AVE

17TH ST

CD-3

LUDC#4



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COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager *JLM/SAT*

DATE: February 17, 2016

SUBJECT: **ANNUAL EVALUATION OF PARKING IMPACT FEE STRUCTURE AND PARKING REGULATIONS**

BACKGROUND

Chapter 130, Article V of the Code of the City of Miami Beach establishes the "Fee in Lieu of Parking Program" where under certain circumstances new development or uses may pay an impact fee to the City if they are not able or do not wish to provide required parking on-site. On September 10, 2014, the City Commission updated the "Fee in Lieu of Parking" from \$35,000 to \$40,000 per parking space, in order to reflect changes in property values and consumer price indexes as required by Section 130-132 (d) of the City Code.

In conjunction with this modification, the City Commission referred a discussion item to the Land Use and Development Committee pertaining to the current off-street parking requirements in Chapter 130 of the City Code. On January 21, 2015 the Land Use and Development Committee discussed the item and expressed some concern with the related fiscal impact of modifying the annual fee-in-lieu, as well as expanding the program into historic districts. The committee continued the item and requested that a fiscal analysis be prepared.

On May 27, 2015, the Land Use and Development Committee discussed the item and continued the parking impact fee portion of this item to the September 9, 2015 meeting, and directed the Administration to prepare a draft Ordinance on the remaining items, to be presented at the July 29, 2015 meeting. On July 29, 2015, the Land Use and Development Committee continued the item to the September 9, 2015 meeting.

On September 9, 2015, the Land Use and Development Committee continued the item to the November 18, 2015 meeting. The November 18, 2015 Land Use and Development Committee meeting was cancelled, as was the December 2, 2015 meeting. On January 20, 2016, the item was continued to February 17, 2016.

ANALYSIS

Attached is a current summary of all outstanding parking impact fee accounts, including those with payment plans. The Planning and Finance Departments continue to be diligent as it pertains to past due bills.

Also, as previously directed by the Land Use Committee, attached is a draft ordinance that proposes modifications to Chapter 130 to simplify and clarify existing procedures and standards for off-street parking. The changes proposed do not modify or affect the number of off-street parking spaces required within each of the City's Parking Districts. The attached ordinance proposes a number of grammatical and scrivener's error corrections, as well as the following non-substantive changes:

- Augmenting text descriptions of the various parking districts with maps.
- Clarifying and simplifying the procedures and requirements related to providing required parking spaces off-site, including a definition for distance measurement.
- Clarifying and simplifying minimum parking space dimension requirements.
- Clarifying when fees in lieu of providing required parking are assessed and that such fees have been incorporated into the fee schedule (Appendix A) of the Land Development Regulations.
- Updating obsolete reference citations.

The proposed ordinance also includes some substantive changes, which are designed to further clarify, streamline and simplify the application and administration of chapter 130. The following is a side-by-side comparison of these proposed modifications:

Current Code	Proposed Ordinance
Variance prohibition for required parking currently located in Sec. 118-353	Re-stated in Sec. 130-30
Required parking spaces cannot be removed except to accommodate trash rooms or ADA requirements	Non-conforming parking spaces can also be removed
When multiple parking reductions apply, the code does not establish an order of the reductions	Multiple reductions would be calculated in the order they appear in the code
Fractional parking credits or reductions are not specifically addressed	Fractional parking credits or reductions are rounded <i>down</i> to the nearest whole number
Signage for accessory uses in parking garages are limited to 10 square feet per use	Parking garage accessory use signage requirements are subject to the regulations of Chapter 138 (signage)

Temporary Parking Lot Time Frames: 3 year initial approval; Up to a 2 year extension by Planning Board; Up to 5 separate 1 year extensions by Planning Director. Max Time: 10 Years	Temporary Parking Lot Time Frames: 3 year initial approval; Up to 7 year extension by Planning Board. Max Time: 10 Years
Landscaping requirements listed in the temporary and provisional lot standards	Landscaping requirements moved to Chapter 126 (Landscaping)
Fee in Lieu of parking <i>shall</i> be evaluated yearly based on CPI by the Planning Director	Fee in Lieu of parking <i>may</i> be evaluated yearly based on CPI by the City Commission
Parking credits issued for buildings built before October 1989 based on parking code from 1989	Parking credits issued for the prior use based on current code
Current code does not address a mixture of parking credits and parking spaces used to satisfy required parking	Clarifies that a project can use a mixture of parking credits and parking on-site to satisfy required parking
Underutilized parking lots and garages are required to submit annual reports	Underutilized parking lots and garages would be required to submit an updated report only when there are changes proposed
Current code lacks clarity as it pertains to requirements for valet and tandem parking spaces	Clarifies the minimum distance requirement, size, and restrictive covenants required for valet and tandem spaces

In addition to the changes proposed in the draft ordinance and summarized above the Committee may wish to consider the following proposals:

Increase the distance for which off-site parking facilities can be located

Currently, if a proposed provides required parking off-site, the parking must be located within 1,200 feet if it is located in the architectural or local historic district, or 500 feet if it is outside of the aforementioned districts. Several uses have found it difficult to provide their own parking on-site or within these set distances. Since there are generally good pedestrian facilities throughout Miami Beach, it is likely that a customer would be willing to walk a longer distance to a business. Such a change would make it more likely that a

business provide their required off-street parking at centralized garages, which could have beneficial impacts for the flow of traffic in the City.

Larger Buildings Not Located in Historic Districts to Participate in Fee in Lieu of Parking
Presently section 130-131 of the City Code only allows up to 1,000 square feet of new construction or additions to buildings not in historic districts to participate in the Fee in Lieu of Providing Required Parking program. This forces new developments in those areas to provide all required parking on-site or within 500 feet of the site or within 1,200 feet of the site if valet parking is provided.

Meeting all required parking space and driveway dimensions can be challenging on small lots, particularly in areas where the City may want to promote small lot infill development. In this regard, the new construction threshold for participation in the fee in lieu of parking program could be increased from the current maximum of 1,000 square feet to 8,000 square feet. This could be particularly useful in areas where the City wishes to encourage the construction of compact, pedestrian friendly development, such as in North Beach.

Municipal Mobility Fee

The City is currently in the initial study phase of a future municipal mobility fee process, that is expected to replace the current concurrency management process. It is anticipated that the parking impact fee program may be able to be rolled into the municipal mobility fee. As this process moves forward, additional modifications to chapter 130 will be required.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction. If there is consensus on the issues discussed herein, it is recommended that the proposed Ordinance be sent to the City Commission for referral to the Planning Board.

JLM/SMT/TRM/RAM

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Planning Department
FY10 - FY16
As of 02/08/2016

Fee in Lieu of Parking Accounts with Outstanding Balances

	<u>Invoiced Amount</u>	<u>Paid Amt</u>	<u>Amount Due</u>
Total	\$ 636,368.10	\$ 93,365.00	\$ 543,003.10
Total Number of Accounts with Outstanding Balances		17	

Payment Plans

	<u>Total Amount Due</u>	<u>Paid to Date</u>	<u>Balance</u>
Total	\$ 177,810.00	\$ 34,663.33	\$ 143,146.67
Total Number of Accounts with Payment Plan Agreements		12	

Off-Street Parking Regulations

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, FLORIDA, BY AMENDING CHAPTER 130, "OFF-STREET PARKING," ARTICLE I, "IN GENERAL," ARTICLE III, "DESIGN STANDARDS," ARTICLE V, "FEE IN LIEU OF PARKING PROGRAM," ARTICLE VI, "PARKING CREDIT SYSTEM," ARTICLE VII, "SURPLUS AND UNDER-UTILIZED PARKING SPACES," AND ARTICLE IX, "VALET AND TANDEM PARKING", BY AMENDING AND CLARIFYING STANDARDS AND PROCEDURES FOR OFF-STREET PARKING REQUIREMENTS; PROVIDING CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach has the authority to enact laws which promote the public health, safety and general welfare of its citizens; and

WHEREAS, the City of Miami Beach Land Development Regulations ("LDRs") provides for the regulation of land within the City; and

WHEREAS, regulation of standards for off-street parking improves the health, safety, and welfare of the City's residents; and

WHEREAS, these regulations will accomplish these goals and ensure that the public health, safety and welfare will be preserved in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1. That Chapter 130, "OFF-STREET PARKING", is hereby amended, as follows:

Chapter 130 - OFF-STREET PARKING

ARTICLE I. - IN GENERAL

Secs. 130-1—130-29. – Reserved.

Sec. 130-30. - Variances for off-street parking requirements.

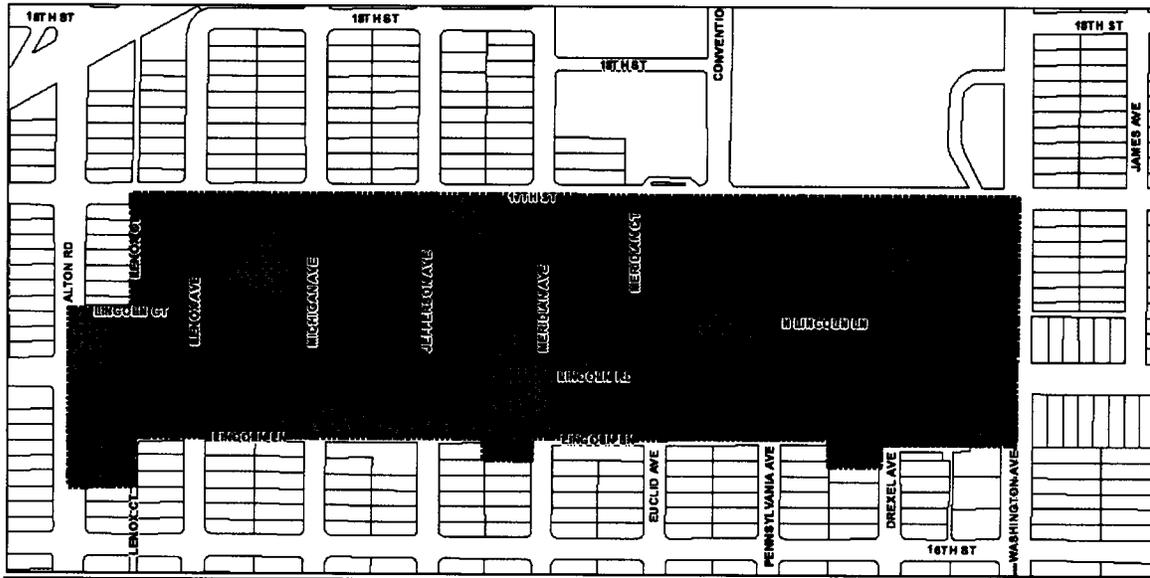
Variances for off-street parking requirements shall be prohibited unless explicitly authorized in this chapter.

ARTICLE II. - DISTRICTS; REQUIREMENTS

Sec. 130-31. - Parking districts established.

(a) For the purposes of establishing off-street parking requirements, the city shall be divided into ~~six~~ the following parking districts.

- (1) *Parking district no. 1.* Parking district no. 1 is that area not included in parking districts nos. 2, 3, 4, 5, 6, and 7.
- (2) *Parking district no. 2.* Parking district no. 2 includes those properties with a lot line on Lincoln Road from the west side of Washington Avenue to the east side of Alton Road and those properties north of Lincoln Road and south of 17th Street from the west side of Washington Avenue to the east side of Lenox Court, as depicted in the map below:-



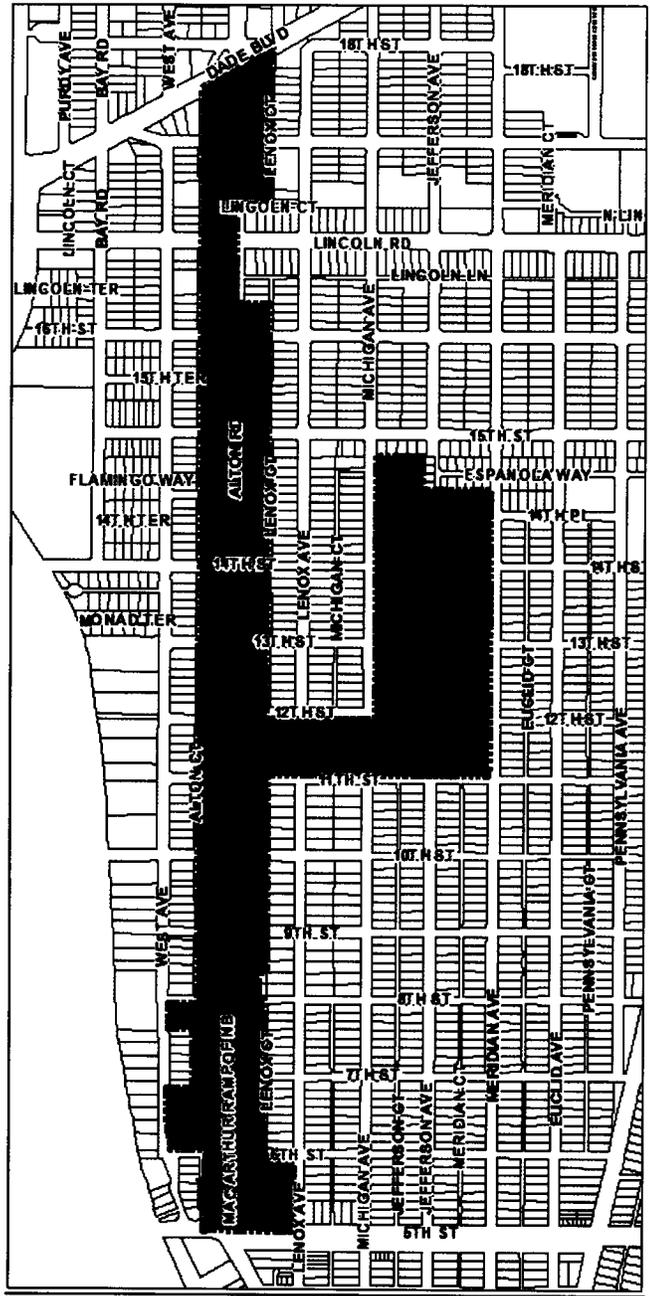
- (3) *Parking district no. 3.* Parking district no. 3 includes those properties in the CD-3 commercial high density zoning district within one block north or south of Arthur Godfrey Road from the east side of Alton Road to west side of Indian Creek Waterway, as depicted in the map below:-



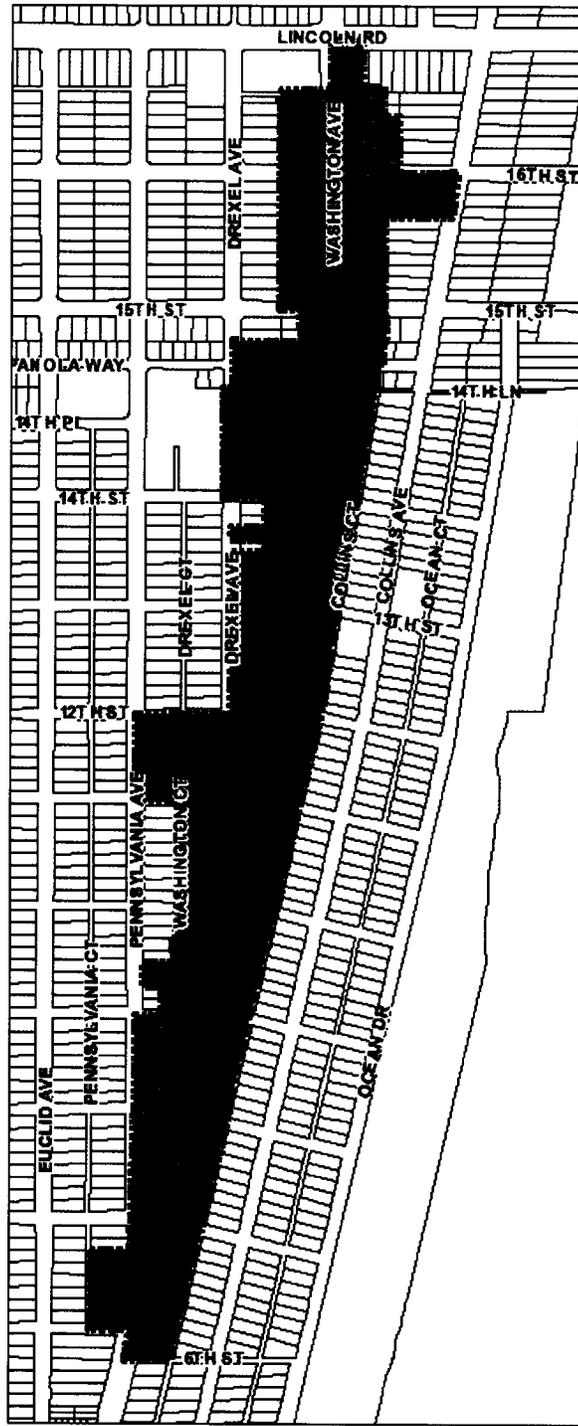
- (4) *Parking district no. 4.* Parking district no. 4 includes those properties within the TC-1 and TC-2 commercial district in the North Beach Town Center and those properties in CD-2 districts with a lot line on 71st Street, or between 67th Street and 72nd Street, from the west side of Collins Avenue to the east side of Rue Notre Dame, and those properties with a lot line on Normandy Drive from the west side of the Indian Creek Waterway to the east side of Rue Notre Dame, and those properties in the CD-2 and MXE districts between 73rd Street and 75th Street, as depicted in the map below:-



- (6) *Parking district no. 6.* Parking district no. 6 includes those properties between Alton Court (alley) and Lenox Court (alley), or with a lot line on Alton Road, where an alley does not exist, from 5 Street on the south to Dade Boulevard on the north, with the exception of properties included in parking district no. 2, as depicted in the map below:-



(7) *Parking district no. 7.* Parking district no. 7 includes those properties with a lot line on Washington Avenue from 6th Street to Lincoln Road, excluding those properties in parking district no. 2, as depicted in the map below:-



- (b) There shall be no off-street parking requirement for main or accessory uses associated with buildings that existed prior to October 1, 1993, which are (i) located within the architectural district, (ii) a contributing building within a local historic district, or (iii) individually designated historic building. This provision shall not apply to renovations and new additions to existing buildings which create or add floor area, or to new construction which has a parking requirement.

* * *

Sec. 130-35. - Removal of existing parking spaces.

Except as provided for within subsection 130-132(c), no existing required parking space, which is legally conforming, may be eliminated for any use. However, notwithstanding the forgoing, the elimination of any such legal conforming, required parking space for the purposes of addressing Americans with Disabilities Act (ADA) compliance or for the creation of an enclosed dumpster/trash area when there has been a determination by the planning and zoning director of no feasible alternate location shall be permitted without the need to replace such space or payment of an impact-fee in lieu of required parking.

Sec. 130-36. - Off-site parking facilities.

(a) All parking spaces required in this article shall, shall be provided on a self-park basis or valet parking basis in accordance with section 130-251, and shall be located on the same lot with the building or use served, or offsite if one of the following conditions is met: within a distance not to exceed 500 feet from such lot, or 1,200 feet (i) if located in the architectural district or a local historic district, or (ii) the parking lot is operated on a valet basis as per section 130-35. The distance separation shall be measured by following a straight line from the lot on which the main permitted use is located to the lot where the parking lot or garage is located.

(1) The parking is within a distance not to exceed 1,200 feet of the property with the use(s), if located in the architectural district or a local historic district.

(2) The parking is within a distance not to exceed 500 feet of the property with the use(s), when the use is not located in the architectural district or a local historic district.

The foregoing distance separation shall be measured by following a straight line from the property line of the lot on which the main permitted use is located to the property line of the lot where the parking lot or garage is located.

(b) Where the required parking spaces are not located on the same lot with the building or use served and used as allowed in section 130-32, a unity of title or for nonadjacent lots, either a unity of title or a ~~restrictive~~ covenant in lieu of unity of title for parking unification shall be ~~prepared~~ required for the purpose of insuring that the required parking is provided. Such unity of title or restrictive covenant shall be executed by owners of the properties concerned, approved as to form by the city attorney, recorded in the public records of the county as a covenant running with the land and shall be filed with the application for a building permit.

~~(c) Temporary parking lot facilities shall be pursuant to section 130-68~~

Sec. 130-37. - Interpretation of off-street parking requirements.

- (a) The parking required herein is in addition to space for storage of trucks or other vehicles used in connection with a business, commercial, or industrial use.
- (b) Where fractional spaces result, the number of required parking spaces required shall be rounded up to the nearest whole number.
- (c) The parking space requirements for a use not specifically listed in this section shall be the same as for a listed use which generates a similar level of parking demand.
- (d) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, except when the amount of required parking spaces is computed under the shared parking provisions as set forth in section 130-221
- (e) Whenever a building or use, constructed or established after the effective date of these land development regulations, is changed or enlarged in floor area, number of apartment or hotel units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided, or the impact fee paid, whichever is permitted under these land development regulations, on the basis of the enlargement or change, pursuant to the procedures for establishing parking credits described in section 130-161.
- (f) Whenever a proposed use does not indicate the specific number of persons to occupy such area, the required parking shall be computed on the basis of one person per 15 square feet of floor area, the parking requirement shall then be calculated as listed in sections 130-32 through 130-34.
- (g) Handicapped-Accessible parking facilities shall be provided as required by the South Florida Building Code. These spaces shall be included within the amount of parking that is required under these land development regulations.
- (h) For nonresidential uses, the parking calculation shall be the gross floor area of the building.
- (i) When multiple reductions can be applied to the required parking calculation, they shall be applied in the order in which they appear in the land development regulations.
- (j) When applying parking credits or reductions, any fractional spaces shall be rounded down to the nearest whole number.

* * *

ARTICLE III. - DESIGN STANDARDS

Sec. 130-61. - Off-street parking space dimensions.

With the exception of parking spaces that are permitted in sections 130-101, 130-251, and 130-281, a standard off-street parking space shall be an all-weather surfaced area, not in a street or alley according to the following standards; ~~and having a width of not less than eight and one-half feet and a length of not less than 18 feet, or when located outdoors, 16 feet with two feet of pervious area overhang, in place of wheel stops and defined by continuous concrete curb, for a total length of 18 feet. The provision of having a two-foot pervious area overhang in standard parking spaces may be waived at the discretion of the planning and zoning director in those instances where said overhang is not practical. In no instance, however, shall the length of any standard off-street parking space be less than 18 feet, unless indicated in sections 130-101, 130-251, and 130-281 herein. A standard parallel parking space shall be an all-weather~~

~~surfaced area, 21 feet in length and eight and one-half feet wide. The length required shall be measured on an axis parallel with the vehicle after it is parked. The width required is to be column-free clear space, except for those standard off-street parking spaces immediately adjacent to a structural column within an enclosed parking structure which may have a width of eight feet. The required area is to be exclusive of a parking aisle or drive and permanently maintained for the temporary parking of one automobile. See section 130-251 for valet parking standards.~~

- (1) A standard parking space shall have a width of not less than eight and one-half feet and a length of not less than 18 feet, or when located outdoors, 16 feet with two feet of pervious area overhang, in place of wheel stops and defined by continuous concrete curb, for a total length of 18 feet. The provision of having a two-foot pervious area overhang in standard parking spaces may be waived at the discretion of the planning and zoning director in those instances where said overhang is not practical. In no instance, however, shall the length of any standard off-street parking space be less than 18 feet, unless indicated in sections 130-101, 130-251, 130-281, 130-69 and 130-61 (2) herein.
- (2) A standard parallel parking space shall have a width of not less than eight and one-half feet wide and a length of not less than 21 feet. The length required shall be measured on an axis parallel with the vehicle after it is parked. The width required is to be column-free clear space, except for those standard off-street parking spaces immediately adjacent to a structural column within an enclosed parking structure which may have a width of eight feet. The required area is to be exclusive of a parking aisle or drive and permanently maintained for the temporary parking of one automobile. See section 130-251 for valet parking standards.
- (3) Lots which are 55 feet wide or less may have 90° parking stalls measuring 8½ feet by 16 feet.

Sec. 130-67. - Screening and landscaping.

At-grade parking lots and parking garages shall conform to the minimum landscape standards as set forth in ~~section 126-6~~ Chapter 126.

Sec. 130-68. - Commercial and noncommercial parking garages.

Commercial and noncommercial parking garages as a main use on a separate lot shall be subject to the following regulations, in addition to section 142-1107 - Parking lots or garages on certain lots and the other regulations of this article:

* * *

- (2) When located in the RM-1, RM-2, RM-3, R-PS1, R-PS2, R-PS3 and R-PS4 districts and the GU districts adjacent to residential districts, the following regulations shall apply:

* * *

- b. In addition, the following shall apply:

* * *

In no instance shall the above described combined residential and/or commercial space exceed 25 percent of the total floor area of the structure, with the commercial space not exceeding ten percent of the total floor area of the structure, nor shall any accessory commercial space exceed 40 feet in depth. Additionally, in no instance shall the amount of floor area of the structure used for parking, exclusive of the required parking for the above described residential or commercial space, be less than 50 percent of the total floor area of the structure, so as to insure that the structure's main use is as a parking garage. ~~Signage for commercial uses allowable under this provision are limited to one nonilluminated sign no greater than ten square feet in area per business.~~

Sec. 130-69. - Commercial and noncommercial parking lots.

Commercial and noncommercial parking lots as a main use on a separate lot shall be subject to the following regulations, in addition to section 142-1107 - Parking lots or garages on certain lots and the other regulations of this article:

- (1) The required front and rear yards shall be those of the underlying district.
- (2) The required side yards shall be as follows:

Lot Width	Side Yard Setbacks
55 feet wide or less	Two feet
Between 56 and 100 feet, inclusive	Five feet
Greater than 100 feet	Ten feet

- ~~(3) Lots which are 55 feet wide or less may have 90° parking stalls measuring 8½ feet by 16 feet.~~

Sec. 130-70. - Temporary parking lot standards.

- (1) Temporary commercial or noncommercial parking lots may be operated in the MR marine district, GU government use district, MXE mixed use entertainment district, I-1 urban light industrial district or in any commercial district. These lots may be operated independent of a primary use. Temporary, noncommercial lots may be located in the R-PS1—4 and in any multifamily residential district or within the architectural district as

defined in section 114-1. One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage. This sign shall also include copy that indicates the name of the operator, the phone number of operator to report complaints, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.

- (2) Parking lots shall be brought to grade with no less than one inch of asphalt over a four-inch lime rock base; however, the public works director may require a six-inch lime rock base or thicker asphalt based upon conditions at the site, the intensity of the use at the site or if trucks are intended to be parked on the site that would require the additional base support. Surface stormwater shall not drain to adjacent property or a public right-of-way. If the public works director determines that there is insufficient area to accommodate drainage, additional measures may be required to adequately drain stormwater runoff.
- (3) Should the city manager find that the operation of a temporary parking lot has an adverse effect on the welfare of surrounding properties, he may revoke the license pursuant to the procedures set forth in section 102-383 upon 48-hour written notification to the applicant.
- (4) Use of temporary parking lots shall not be for parking which is required by these land development regulations.
- (5) All lots considered under this article shall be reviewed pursuant to the design review regulations.
- (6) All lots located south of Biscayne Street or located in a residential zoning district shall require a public hearing pursuant to the conditional use procedures as set forth in chapter 118, article IV.
- (7) Temporary parking lots shall not be permitted to exist for a period of time greater than three years from the date of certificate of occupancy or occupational license (business tax receipt), whichever occurs first, regardless of ownership. At the end of this period, or such extensions that may be granted as contemplated herein, if the lot continues to be used for the purposes of parking, a permanent lot shall be constructed in conformity with these land development regulations. ~~;~~ however, prior to the expiration of an approved temporary parking lot, or not later than 90 calendar days after the expiration of such approval approved temporary parking lot, an applicant may request from the planning board one initial an extension of time for a period not exceeding two seven years. In granting reviewing the initial extension of time request or subsequent progress reports as may be required, or considering an appeal from the planning director's decision regarding an extension of time (as provided below), the board shall consider, among other things, whether the applicant has complied with all of the applicable requirements of these land development regulations, and any conditions imposed by the planning board, if any, during its period of operation, as well as any landscaping on the property that may not be in compliance with the requirements of chapter 126 listed below. The notice of public hearing requirements shall be as set forth in chapter 118, article IV.

~~After the first extension of time, and prior to expiration, or not later than 90 calendar days after the expiration of such approval, an applicant may request from the planning director not more than five extensions of time for periods not to exceed one year each. In considering a request for an extension of time, the director shall consider the same criteria considered by the planning board as specified above.~~

~~An applicant may request from the planning board a further extension of time for a period not to exceed two years for approved temporary parking lots that have held a temporary parking lot license (n/k/a business tax receipt), if they have availed themselves of all applicable extensions of time, and are expiring no later than July 31, 2011, inclusive of parking lots in the MXE (east side of Collins Avenue) district. When requesting the additional two-year extension of time from the planning board, the applicant shall comply with the setback requirements for parking lots in the underlying zoning district, as determined by the planning director, and satisfy the landscaping requirements for permanent parking lots. After this two-year extension, no more than three one-year extensions may be requested from the planning director.~~

~~At the end of all applicable extensions of time for a temporary parking lot, unless a permanent is constructed in conformity with these land development regulations the lot shall cease to be used for parking and the asphalt and rock base shall be removed and replaced with soil and landscaping, which shall be maintained until the property is developed for a use permitted in the zoning district. The owner of the property shall be responsible for maintaining such property and the landscaping. A plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation shall be submitted to, and approved by, the planning department as part of the last administrative request for extension of time.~~

~~The decision of the director with respect to an extension of time may be appealed by the applicant to the planning board. The appeal shall be in writing and shall be submitted to the planning director on or before the 20th day after the date of the decision of the planning director. Review of the decision of the planning board shall be to a court of competent jurisdiction by petition for writ of certiorari.~~

~~(8) Landscaping requirements shall be pursuant to the requirements of Chapter 126.~~

~~A landscape plan that specifies and quantifies the existing and/or proposed plant material inclusive of mature shade trees, hedge material, ground cover and in-ground irrigation shall be submitted for review and approval by the planning department, according to the following criteria:~~

- ~~a. At a minimum, the plan shall indicate a five-foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk. The areas fronting a street or alley shall be landscaped with a grouping of three palms every 15 linear feet of frontage or one canopy tree every 20 feet of frontage. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department.~~
- ~~b. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; hedges on street or alley frontages shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and shall not exceed 60 inches (five feet) at maturity.~~
- ~~c. For temporary parking lots seeking an extension of time from the planning board, the interior landscaping of lots exceeding 55 feet in width, shall be a minimum of five percent of net interior area. One shade tree or grouping of three palms with a clear trunk of at least six feet shall be provided for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. Parking lots that are 55 feet wide or less shall not be required to provide interior landscaping.~~

- ~~d. Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least 2½ feet from the edge of the paved area.~~
 - ~~e. Notwithstanding the dimensions of a parking lot, an in-ground irrigation system that covers 100 percent of the landscaped areas shall be required and shown on the landscape plan.~~
 - ~~f. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a temporary parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to, cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.~~
- (9) If the lot is paved and not operated on a valet basis, then all parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces and wheel stops shall be provided. Vehicles shall not back out onto any street. The size of the parking spaces, back-out areas and exit/interior drives shall not have dimensions less than those required in sections 130-61 and 130-64. Lots operated on a valet basis shall have wheel stops at the edge of the pavement. All wheel stops required in this subsection shall be placed no less than four feet away from each other.
- (10) Prior to the issuance of a building permit, the planning department shall approve the site and landscaping plans. Prior to the issuance of an occupational license, the department shall approve the placement, quality and size of landscaping material.
- (11) Any temporary parking lot that is nonconforming to these regulations six months after the effective date of these land development regulations or upon the expiration date of an existing occupational license, whichever is later, shall cease to exist.

Sec. 130-71. - Provisional parking lot standards.

When permitted, the following standards are established for provisional parking lots:

- (1) Provisional commercial or noncommercial parking lots may be operated in the CD1-3 (commercial, low to high intensity) districts, CPS-1 and 2 (commercial performance standards districts), I-1 (urban light industrial) district, and MXE (mixed use entertainment) district. These lots may be operated independent of a primary use. One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage, not to exceed 20 square feet. This sign shall also include copy that indicates the name of the operator, the phone number of operator to report complaints, the phone number for Code Compliance, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.
- (2) Provisional parking lots shall be brought to grade with a dust-free surface of no less than two inches of crushed rock. Prior to the issuance of an occupational license for a provisional parking lot, the applicant shall submit a plan which addresses the regular maintenance and watering of the parking and landscaped surfaces; such plan shall be approved by the planning department and monitored

for compliance. Surface stormwater drainage shall be approved by the public works department.

- (3) Should the city manager find that the operation of a provisional parking lot has an adverse effect on the welfare of surrounding properties, ~~he~~ the manager may revoke the license pursuant to the procedures set forth in section 102-383 upon 48-hour written notification to the applicant.
- (4) Use of provisional parking lots shall not be for parking which is required by these land development regulations.
- (5) Provisional parking lots shall not be permitted to exist for a period of time greater than one year from the date of certificate of occupancy, or occupational license issuance, whichever occurs first, regardless of ownership. At the end of this period, if the lot continues to be used for the purposes of parking, a temporary or permanent lot shall be constructed in conformity with these land development regulations; however, an applicant may request one extension of time for a period not exceeding six months from the planning director. Any further extension of time shall be prohibited.
- (6) Landscaping requirements shall be pursuant to the requirements of Chapter 126:
 - ~~a. A landscape plan that specifies and quantifies the proposed and/or existing plant material inclusive of mature shade trees, hedge material and ground cover shall be submitted for review and approval by the planning department.
At a minimum, the plan shall indicate a two foot six inches (2½ feet) wide, landscaped area bordering the surfaced area along all property lines. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; the side or sides of the lot that face a street or an alley shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and 60 inches (five feet) at maturity.~~
 - ~~b. The areas fronting a right-of-way or an alley shall be landscaped with a grouping of three palms every 20 linear feet of frontage or one canopy tree every 25 feet of frontage.~~
 - ~~c. An in-ground irrigation system that covers 100 percent of the landscaped areas shall be required.~~
 - ~~d. All landscaping that is placed on the lot shall be maintained in good condition so as to present a healthy, neat and orderly appearance. Prior to the issuance of an occupational license for a provisional parking lot, the applicant shall submit a plan for a recurring maintenance schedule that includes, but is not limited to cleaning the lot, clipping of hedge material, removing and replacement of dead plant material, fertilization and irrigation. This maintenance plan shall be approved by the planning department.~~
- (7) All lots considered under this article shall be reviewed pursuant to the design review process.

- (8) If the lot is not operated on a valet basis, all parking spaces shall be marked by painted lines or curbs or other means to indicate individual spaces and wheel stops shall be provided. Vehicles shall not back out onto any street. The size of the parking spaces, back-out areas and exit/interior drives shall not have dimensions less than those required in sections 130-61 through 130-64. Lots operated on a valet basis shall have wheel stops at the edge of the parking surface. All wheel stops required in this subsection shall be placed no less than four feet away from each other.
- (9) Prior to the issuance of a building permit, the planning department shall approve the site and landscaping plans. Prior to the issuance of an occupational license, the division shall approve the placement of landscaping.
- (10) The applicant for a provisional parking lot must provide a written statement from the property owner as part of the required submission for the lot, acknowledging that the owner is fully and solely responsible for eliminating any contamination resulting from lack of a drainage system on the unpaved lot and indemnifying and holding the city harmless from loss or damage arising from any contamination on the lot, in a form approved by the city attorney's office.
- (11) No variances shall be granted from the requirements of this section.
- (12) At the time the provisional parking lot ceases to exist, all crushed rock material shall be removed within 30 days and replaced with sod and/or landscaping as determined acceptable by the planning, design and historic preservation division. This provision shall not apply to existing lots where crushed rock was legally in place at the time of the passage of these land development regulations.

ARTICLE V. - FEE IN LIEU OF PARKING PROGRAM

Sec. 130-132. - Fee calculation.

- (a) *New construction.* The fee in lieu of providing parking for new construction shall be satisfied by a one-time payment at the time of issuance of a building permit ~~of \$35,000.00 per parking space. The amount of such one-time fee may be changed in accordance with subsection (d) of this section is set forth section 118-7.~~
- (b) *Existing structures and outdoor cafes.* When alteration or rehabilitation of a structure results in an increased parking requirement, or an outdoor cafe is created or expanded, the fee in lieu of providing parking shall be satisfied by one of the following:
 - (1) A one-time payment as set forth in subsection (a) of this section.
 - (2) A yearly payment in the amount ~~of two percent of the payment required by subsection (a) of this section set forth in 118-7,~~ which shall continue as long as the use exists. (The amount of such payment may vary from year to year in accordance with the determination set forth in subsection (d) of this section.) However, in lieu of continued yearly payments, a one-time redemption payment may be made at any time of the full

amount due pursuant to subsection (a) of this section minus the amount of money already paid through yearly payments; such amount shall be based upon the latest determination made pursuant to subsection (d) of this section as of the time of the redemption payment rather than upon the amount which would have been due if the fee had been paid at the time of issuance of the building permit. However, when new floor area is added to the existing building, the impact-fee in lieu shall be as set forth in subsection (a) of this section.

- (c) *Removal of existing parking spaces in a historic district.* Whenever an existing required parking space is removed or eliminated for any building that existed prior to October 1, 1993, which are located within the architectural district, a contributing building within a local historic district, or any individually designated historic building, a fee in lieu of providing parking shall be required if a replacement parking space is not provided pursuant to section 130-36 on-site or within 500 feet of the site or within 1,200 feet of the site if in the architectural district. Such fee shall be satisfied as set forth in subsection (b), above. In no case shall the removal of parking spaces result in less than one parking space per residential unit or 50 percent of the required parking for commercial uses. This subsection shall not prohibit the removal of grade level parking spaces located within the front, side street or interior side yards of a lot ~~which has a designated contributing building within a designated historic district, should those parking spaces be nonconforming. This subsection shall not prohibit the removal of grade level parking spaces located within the front yard or side yard facing a street of a lot which has a noncontributing building within a designated historic district, should those parking spaces be nonconforming.~~ Any request for the removal of parking spaces under this subsection shall only be approved with the applicant's consent. The parking department shall advise the planning department and the joint design review/historic preservation board of the impact of the removal of any parking spaces.
- (d) *Annual evaluation.* The amount determined to be the city's total average cost for land acquisition and construction of one parking space shall may be evaluated yearly ~~each May~~ by the city commission ~~planning director~~ based upon the Consumer Price Index (CPI). If determined appropriate, the city commission may amend the fee structure in this section by resolution.

Sec. 130-133. - Fee collection.

(a) *New construction.*

- (1) *One time payment.* For new construction the fee in lieu of providing parking shall be paid in full ~~at the time of application for the prior to obtaining a full building permit.~~ Such fee shall be refunded, upon the request of the applicant, if construction does not commence prior to expiration of the building permit.
- (2) *Yearly fee.* For those projects which are eligible for and elect a yearly payment plan, the first fee-in-lieu payment shall be paid ~~prior to the issuance of a building permit and shall be applied at the time the certificate of use is issued.~~ If no building permit is needed, the first payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The amount due shall be prorated from September 30. The second payment shall be due Jun 1 following the issuance of the occupational license or certificate of use, whichever is earlier, and the amount due shall be prorated. Subsequent annual payments shall be paid in full by June 1 as long as the use exists. ~~†~~The amount of the payment is set forth in subsection 130-132(b)(2).
- (b) *Existing structures.* For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be paid ~~prior to the issuance of a building permit and shall be~~

~~applied at the time the certificate of use is issued. If no building permit is needed, the first payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The second payment shall be due June 1 following the issuance of the occupational license or certificate of use, whichever is earlier, and t~~ The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists; ~~t~~ The amount of the payment is set forth in subsection 130-132(b)(2).

- (c) *Existing structures; one time redemption payment.* For existing structures, a one time redemption payment may be made at any time and shall be in the amount determined by application of the formula for a one time payment as set forth in subsection 130-132(b)(2).
- (d) *Late payments.* For late payments, monthly interest shall accrue on unpaid funds due to the city under the fee-in-lieu program at the maximum rate permitted by law. Additionally, a fee in the amount of two percent of the total due shall be imposed monthly to cover the city's costs in administering collection procedures.
- (e) *Failure to pay.* Any participant in the fee-in-lieu program who has failed to pay the required fee within three months of the date on which it is due shall be regarded as having withdrawn from the program and shall be required to provide all parking spaces required by these land development regulations or cease the use for which such spaces were required. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines of up to ~~\$250.00 per day~~ and liens as provided by law.

ARTICLE VI. - PARKING CREDIT SYSTEM

Sec. 130-161. - Regulations.

~~Whenever a lawfully permitted building or use that was established prior to October 1, 1989, is changed in a manner that results in an increase in the number of required parking spaces, the following regulations shall apply. Any building or use that lawfully existed on October 1, 1989, shall receive a parking space credit equal to the number of parking spaces required prior to the adoption of these land development regulations. Such building or use shall receive a parking credit equivalent to the adopted parking requirement for the building or uses in existence at the time of application for a building permit or change of use. The most recent available certificate of use or certificate of occupancy shall be utilized to determine the credit. If a building or use was established prior to the adoption of a parking district that reduces the parking requirement, the parking credit shall be calculated pursuant to the parking requirements of parking district no 1. The parking credit shall be calculated at the time of building permit or change of use application and run with the land and shall be applied toward the required parking as follows:~~

- (1) The parking credit shall only be applied to the area within the existing shell of the building, unless otherwise specifically provided in Chapter 118, Article IX, of these land development regulations.
- (2) Parking credits shall not be applicable to buildings or portions of a building that have been demolished, unless otherwise specifically exempted in Chapter 118, Article IX, of these land development regulations.
- (3) ~~Parking credits in the MXE mixed use entertainment district shall only be applied as of November 5, 1990. Parking credits in the redevelopment area shall only be applied as~~

~~of the effective date of these land development regulations. Any existing use in the MXE mixed use entertainment district or redevelopment area which has satisfied the parking requirement through participation in the parking impact fee program may have its parking impact fee adjusted for parking credits at the next due date for payment. No reimbursement or prorating shall be allowed. In order to calculate the parking requirement of a proposed use, the parking credit shall be subtracted from the total parking requirement of the proposed use. The additional required parking shall be provided pursuant to the requirements of section 130-36 or if eligible, the fee in lieu of parking program described in Article V of this chapter.~~

- (4) Existing required parking spaces, inclusive of spaces for which a complete fee in lieu of required parking was made, for a building or use shall not count towards meeting additional required parking for a proposed use, unless the total number of existing required parking spaces exceeds the total number of required parking spaces of the proposed use.

ARTICLE VII. - SURPLUS AND UNDER-UTILIZED PARKING SPACES

Sec. 130-191. - Surplus parking spaces.

~~When a development contains parking spaces in excess of the number required by these land development regulations, such spaces shall be considered as surplus parking. These surplus spaces may be leased to utilized by another property for use as required parking spaces, if pursuant to the off-site parking requirements of section 130-36, the surplus spaces are within 500 feet of the development leasing such spaces or within 1,200 feet of the development leasing such spaces in the City of Miami Beach Architectural District. The lease agreement shall be approved by the planning and zoning director and the city attorney's office prior to its execution and it shall be recorded in the public records of the county, for each of the affected properties, prior to the issuance of a building permit or occupational license, whichever is earlier. When the development that contains the surplus parking changes to a use that requires additional parking, such use shall not receive a building permit or occupational license until the city receives documentation that a parking shortfall has not been created for any other use that may have been utilizing the surplus parking.~~

Sec. 130-192. - Under-utilized parking spaces.

~~When a building or development contains required parking spaces that are being under-utilized, such spaces may be leased to utilized by another party. However such under-utilized spaces shall not be considered as required parking spaces of the ~~lessee~~ another party. In order to determine if a development has under-utilized spaces, the applicant shall submit an annual a report to the planning and zoning director substantiating this finding. The director shall may approve or deny the ~~report request~~, and any subsequent request for modification based upon the ~~report of the city department verifying the results of the annual report.~~ An application fee plus a fee per space as provided in appendix A shall be paid for purposes of offsetting the cost of administrating this article.~~

ARTICLE IX. - VALET AND TANDEM PARKING

Sec. 130-251. - Requirements.

- (a) Commercial parking garages and lots may consist of 100 percent valet parking spaces. Required parking for commercial establishments, hotels, hotel accessory uses, multi-family residential buildings, residential accessory uses, and alcoholic beverage establishments may be satisfied by providing 100 percent valet parking spaces. If the parking spaces are located off-site, they shall comply with the requirements of section 130-36 in order to satisfy minimum parking requirements. However~~In addition~~, any required parking valet spaces for a multi-family residential building shall be governed by a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, stipulating that a valet service or operator must be provided for such parking for so long as the use continues.
- (b) Dimensions for valet and tandem parking spaces shall be eight and one-half feet ~~depth in width~~ by 16 feet ~~width in depth~~. Dimensions for tandem parking spaces shall be a minimum of eight and one-half feet in width by thirty-two feet in depth, with a maximum stacking of two vehicles per space with a parking aisle of at least 22 feet.
- (c) Tandem parking spaces may be utilized for self-parking only in multi-family residential buildings and shall have a restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, limiting the use of each pair of tandem parking spaces to the same unit owner.
- (d) Commercial parking garages and lots may utilize tandem parking spaces if they are operated exclusively by valet parking. A restrictive covenant, approved as to form by the city attorney's office and recorded in the public records of the county as a covenant running with the land, shall be required and shall affirm that a valet service or operator must be provided for such parking for so long as the tandem parking spaces exist.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and, the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: _____, 2016
Second Reading: _____, 2016

Verified by: _____
Thomas R. Mooney, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes removed language

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: February 17, 2016

SUBJECT: **DISCUSSION: Land Use Boards Application Process**

HISTORY

On January 13, 2016, at the request of Commissioner Arriola (Item C4E), the City Commission referred the land use board application process item to the Land Use and Development Committee to discuss the availability of application packages by the public in advance of the board meeting. On January 20, 2016, the Land Use Committee discussed the item, as well as the application process and noticing requirements for Land Use Boards. The Land Use Committee continued the discussion to February 17, 2016, and requested that staff research opportunities for improving notification procedures so that notice is provided to residents when an application to a land use board is submitted.

BACKGROUND

The following is a summary of the application process and deadlines for applications submitted to the Design Review Board, Historic Preservation Board, Planning Board and Board of Adjustment:

1. First Submittal of Application (64 days prior to meeting)

The deadline for the submission of an application is approximately 64 days prior to the scheduled Board meeting.

2. Staff Review of Application (60 days prior to meeting)

This process takes 4 days for staff to review all submitted applications and provide comments to the applicant noting any deficiencies in the application.

3. Resubmittal to address any outstanding comments (55 days prior to meeting)

The applicant has 5 days to make corrections to the application / plans and resubmit the application.

4. Staff Review of Resubmittal (50 days prior to meeting)

Staff reviews the resubmitted application. Applications that are still deficient are not placed on the agenda and in order to continue, must restart the process the following month. Completed applications are notified of acceptance.

5. Final Submittal of Application (48 days prior to meeting)

After staff has accepted the application, the applicant has 2 days to provide required copies for later distribution to the Board members and staff.

6. Draft Meeting Agenda Prepared (46 days prior to meeting)

Agenda is prepared based upon the completed applications that have been submitted.

7. Agenda reviewed with City Attorney's office (43 days prior to meeting)

Agenda along with public notice is reviewed with City Attorney to ensure that notice language is sufficient and accurate.

8. Advertisement is sent to the Herald for publication (41 days prior to meeting)

9. Advertisement is published in the Herald (37 days prior to the meeting)

10. Posting of Notice on property and mail notification to property owners located within 375 feet of a subject application (32 days prior to meeting)

Although an application becomes a public record once it is submitted, it is not determined to be a complete application until reviewed for completeness and accepted by staff. This acceptance process takes approximately two weeks. During this process, plans and exhibits may be added, removed, clarified, or modified. Once an application is submitted for Final Submittal (48 days prior to the meeting), no other changes are allowed.

The preparation of the public notice and agenda is based upon the final submittal, and is completed approximately one week after acceptance of all applications (41 days prior to the meeting). Upon publication of the notice, a preliminary agenda for the meeting is uploaded to the City website and forwarded to all constant contact subscribers. This preliminary agenda includes all completed applications for that meeting.

UPDATE

Currently, property owners residing within 375 feet of a land use board application, and subscribers to the constant contact service, receive notice of a complete land use board application over 30 days in advance of the hearing. Additionally, while board agendas and staff reports are accessible directly from the City website at any time, in order to review all other exhibits associated with a Land Use Board application, the file must be accessed at the Planning Department during normal business hours.

The City is in the final stages of converting to an electronic agenda system called Novus, which is expected to be operational in April. This system will be much more versatile in terms of public access to documents and exhibits associated with Land Use Board applications, and will allow for expanded electronic access.

CONCLUSION

The Administration recommends that the Land Use Committee discuss the item. It is further recommended that the discussion be continued to March 30, 2016, at which time Planning Staff can provide an update on the Novus Agenda system.

JLM/SMT/TRM/MB

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VERBAL REPORT

MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: December 31, 2015
SUBJECT: Referral to Land Use Committee Ordinance Amending Height and Setbacks for Mixed-Use Development in the Sunset Harbour Neighborhood.

Please add an item to the January 13, 2016 City Commission agenda referring the following to the Land Use Committee:

An ordinance amending the maximum building height and setbacks for mixed-use developments in the CD-2 district south of 18th Street with lot lines on Purdy Avenue and Dade Boulevard

If you have any questions, please contact me at extension 6622.

JVWM

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VERBAL REPORT

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager
FROM: Ricky Arriola, Commissioner
DATE: February 1, 2016
SUBJECT: **REFERRAL TO THE LAND USE AND DEVELOPMENT COMMITTEE TO DISCUSS A COMPLETE REVIEW OF SIGN ORDINANCES.**

Please add the above subject as a consent agenda item to the February 10, 2016 Commission meeting agenda.

In order to encourage bold and iconic signage on Miami Beach, I request a complete review of our current sign ordinances to address design, size, process, and other limitations that might hamper beautiful signage.

Sincerely,
Ricky Arriola

MIAMIBEACH

Ricky Arriola, *Commissioner*
Office of the Mayor and Commission
1700 Convention Center Drive, 4th Floor, Miami Beach, FL 33139
Tel: 305-673-7000 x7107
www.miamibeachfl.gov

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VERBAL REPORT

Cardillo, Lilia

From: Bonini, Danila
Sent: Thursday, January 07, 2016 12:05 PM
To: Cardillo, Lilia
Subject: Referral North Beach short-term rental ordinance

Please add the following ordinance to the January 13th City Commission consent agenda for a referral to Land Use in February. This email is to serve as the cover memo. Thank you for your attention on this matter.

Danila



Danila E. Bonini

Aide to Commissioner MICHAEL C. GRIECO

OFFICE OF MAYOR AND COMMISSION

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 786-338-3865 / Fax: 305-673-7096 / www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

SHORT TERM RENTALS IN NORTH BEACH

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE IV, "SUPPLEMENTARY DISTRICT REGULATIONS", DIVISION 3, "SUPPLEMENTARY USE REGULATIONS", TO MODIFY THE REGULATIONS AND REQUIREMENTS FOR SHORT TERM RENTALS TO INCLUDE PROPERTIES IN NORTH BEACH LOCATED IN THE RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY ZONING DISTRICT AND FRONTING HARDING AVENUE, FROM THE CITY LINE ON THE NORTH, TO 73RD STREET ON THE SOUTH; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City Code contains provisions for the short term rental of apartments and townhomes in those zoning districts that do not permit hotel uses; and

WHEREAS, a specified section of the RM-1 district in North Beach has permitted hotel uses prior to the prohibition on short term rentals in the City of Miami Beach; and

WHEREAS, prior to prohibiting short term rentals in the RM-1 districts, and in recognition of the historical existence of transient, hotel uses near the ocean in North Beach, the City of Miami Beach amended the City Code to permit hotels along the Harding Avenue corridor; and

WHEREAS, the City of Miami Beach desires to amend existing regulations pertaining to the short term rental of apartments and townhomes to allow short term rentals in certain, nearby portions of North Beach also designated RM-1; and

WHEREAS, these regulations serve to make the retention and renovation of architecturally significant buildings in North Beach economically feasible for property owners; and

WHEREAS, in the continuing efforts to revitalize North Beach, this ordinance will stimulate its economy and provide another source of tax revenue for the benefit of the City and community at large; and

WHEREAS, the amendment set forth below is necessary to accomplish all of the above objectives.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION
OF THE CITY OF MIAMI BEACH, FLORIDA:**

SECTION 1. Chapter 142, "Zoning Districts and Regulations", Article IV, "Supplementary District Regulations", Division 3, "Supplementary Use Regulations", of the City Code is hereby amended as follows:

Sec. 142-1111. Short-term rental of apartment units or townhomes.

- (a) *Limitations and prohibitions.*
- (1) Unless a specific exemption applies below, the rental of apartment or townhome residential properties in districts zoned RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, RO-3 or TH for periods of less than six (6) months and one (1) day is not a permitted use in such districts.
 - (2) Any advertising or-advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.

"Advertising" or "advertisement" shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

- (3) None of the districts identified below shall be utilized as a hotel.
- (b) *Previously existing short-term rentals in specified districts.* For a period of six months after June 19, 2010, owners of certain properties located in the following districts shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units for these properties under the requirements and provisions set forth below.
- (1) *Eligibility:* Properties within the RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts. Those properties that can demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building, as defined by the requirements listed below:

(A) For apartment buildings of four or more units, or for four or more apartment units in one or more buildings under the same City of Miami Beach Resort Tax ("resort tax") account. In order to demonstrate current, consistent and predominant short-term renting, the property must comply with all of the following:

- (i) Have been registered with the city for the payment of resort tax and made resort tax payments as of March 10, 2010; and
- (ii) Have had resort tax taxable room revenue equal to at least 50 percent of total room revenue over the last two-year period covered by such payments; and
- (iii) Have been registered, with the State of Florida as a transient apartment or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.

For properties containing more than one apartment building, eligibility may apply to an individual building satisfying subsections (b)(1)(A)(i)—(iii) above.

(B) For apartment and townhouse buildings of three or less units, or for three or less apartment units in one or more buildings under the same state license. In order to demonstrate current, consistent and predominant short-term renting, the property must:

- (i) Have been registered with the State of Florida as a resort dwelling or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.

(2) *Time periods for the districts identified in subsection (b)(1) to apply for short-term rental approvals.*

(A) Owners demonstrating compliance with subsection (b)(1) above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(f), within a time period of six months from June 19, 2010, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(B) Within three months of June 19, 2010, eligible owners shall apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code shall be demonstrated by October 1, 2011, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection

shall not prevent these officials from undertaking enforcement action prior to such date.

- (D) Applications under this section may be accepted until 60 days after April 11, 2012, upon determination to the planning director that a government licensing error prevented timely filing of the application.
- (3) *Eligibility within the Collins Waterfront Local Historic District.* Owners of property located in the Collins Waterfront Local Historic District shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units under the requirements and provisions set forth below:
- (A) Only those properties located south of West 24th Terrace shall be eligible for short-term rentals.
- (B) Only buildings classified as "contributing" in the city's historic properties database shall be eligible for short-term rentals. The building and property shall be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these Land Development Regulations.
- (C) The property must have registered with the State of Florida as a transient or condominium pursuant to Chapter 509, Florida Statutes, as of ~~the effective date of this ordinance~~ February 21, 2015.
- (D) The property must have registered with the city for the payment of resort tax and made resort tax payments as of ~~the effective date of this ordinance~~ February 21, 2015.
- (E) Short-term rental use shall be based on a single use for the property. No building or property seeking to have short-term rentals will be permitted to have mixed residential uses.
- (F) Any property seeking to have short-term rental will need to demonstrate that there is on-site management, 24 hours per day, seven days a week.
- (G) The short-term rental use requires at least a seven-night reservation.
- (4) *Time period to apply for short-term rental approvals for those properties located in the Collins Waterfront Architectural District.*
- (A) Owners demonstrating compliance with subsection (b)(3), above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(e) within a time period of three months from ~~the effective date of this ordinance~~

February 21, 2015, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.

(B) Within three months of ~~the effective date of this ordinance~~ February 21, 2015, eligible owners shall have obtained all the necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.

(C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code, shall be demonstrated by ~~the effective date of this ordinance~~ February 21, 2015, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent the building or fire departments from undertaking enforcement action prior to such date.

(5) In the event a building approved for short-term rentals in accordance with subsections (b)(3) and (4), above, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.

(c) Eligibility within North Beach. Notwithstanding the requirements of subsection (d) below, owners of properties in North Beach zoned RM-1 shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units under the following requirements and provisions:

(1) Only those properties fronting Harding Avenue, from the City Line on the north, to 73rd Street on the south, shall be eligible for short term rentals;

(2) Owners seeking to construct a ground floor attached or detached addition, or seeking to introduce an alcoholic beverage establishment, may use the following sections:

(A) For buildings classified as "contributing" in the North Shore National Register Historic District which are being substantially retained, preserved and restored, and any addition up to a maximum of 2,500 square feet, whether attached or detached, there shall be no off-street parking requirement. The proposed addition to the existing structure shall be subject to the review and approval of the Design Review Board or Historic Preservation Board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(B) For buildings classified as "contributing" in the North Shore National Register Historic District which are being substantially retained, preserved and restored, and any addition in excess of 2,500 square feet, whether attached or detached, may participate in the Fee In Lieu of Parking Program specifically provided for in Chapter

130. Article V, of these land development regulations. The proposed addition to the existing structure shall be subject to the review and approval of the Design Review Board or Historic Preservation Board, whichever has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(C) An alcoholic beverage establishment, whether a restaurant or bar, with a maximum of 40 seats, shall be permitted as an accessory use in buildings classified as "contributing" in the North Shore National Register Historic District. There shall be no parking requirement for the accessory alcoholic beverage establishment use.

(d) *Regulations.* For those properties eligible for short-term rental use as per (b) shall be permitted, provided that the following mandatory requirements are followed:

(1) *Approvals required: applications.* Owners, lessees, or any person with interest in the property seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be on a form provided for that purpose, and contain the contact information for the person identified in subsection (3) below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information as the planning director may determine. The application shall be accompanied by the letter or documents described in subsection (9) below, if applicable.

The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of \$600.00.

(2) *Time period.* All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.

(3) *Contact person.* All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within the districts identified in subsection (b). Each agreement, license, or lease, or scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein, is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.

- (4) *Entire unit.* Only entire apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.
 - (5) *Rules and procedures.* The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.
 - (6) *Signs.* No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.
 - (7) *Effect of violations on licensure.* Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special master's determination of a violation, within the 12 months preceding the date of filing of the application.
 - (8) *Resort taxes.* Owners are subject to resort taxes for rentals under this section, as required by city law.
 - (9) *Association rules.* Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (c)(1) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.
 - (10) *Variances.* No variances may be granted from the requirements of this section.
- (e) *Enforcement.*
- (1) Violations of section 142-1111(b) shall be subject to the following fines. The special master may not waive or reduce fines set by this section.
 - A. If the violation is the first violation: \$500.00.
 - B. If the violation is the second violation within the preceding 12 months: \$1,500.00.
 - C. If the violation is the third violation within the preceding 12 months: \$5,000.00.
 - D. If the violation is the fourth violation within the preceding 12 months: \$7,500.00.

E. If the violation is the fifth or greater violation within the preceding 12 months: suspension or revocation of the certificate of use allowing short-term rental.

Fines for repeat violations by the same offender shall increase regardless of locations.

- (2) In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
- (3) Any code compliance officer may issue notices for violations of this section, with enforcement of subsection 142-1111(a) and alternative enforcement of subsection 142-1111(b) as provided in chapter 30 of this Code. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records and a courtesy notice to the contact person identified in subsection (c)(3) above.

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____ 2015.

ATTEST:

Philip Levine, Mayor

Rafael E. Granado, City Clerk

First Reading:
Second Reading:

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

Underline = new language
~~Strikethrough~~ = deleted language

(Sponsor Commissioner _____)

Sec. 142-1111. - Short-term rental of apartment units or townhomes.

(a) *Limitations and prohibitions.*

- (1) Unless a specific exemption applies below, the rental of apartment or townhome residential properties in districts zoned RM-1, RM-PRD, RM-PRD-2, RPS-1 and RPS-2, CD-1, RO, R0-3 or TH for periods of less than six months and one day.
- (2) Any advertising or advertisement that promotes the occupancy or use of the residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, or use of the residential premises in violation of this section.

"Advertising" or "advertisement" shall mean any form of communication for marketing or used to encourage, persuade, or manipulate viewers, readers or listeners for the purpose of promoting occupancy of a residential property for the purpose of holding commercial parties, events, assemblies, gatherings, or the occupancy of a residence for less than six months and one day, as provided herein, upon the premises, as may be viewed through various media, including, but not limited to, newspaper, magazines, flyers, handbills television commercial, radio advertisement, outdoor advertising, direct mail, blogs, websites or text messages.

- (3) None of the districts identified below shall be utilized as a hotel.

(b) *Previously existing short-term rentals in specified districts.* For a period of six months after June 19, 2010, owners of certain properties located in the following districts shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units for these properties under the requirements and provisions set forth below.

- (1) *Eligibility:* Properties within the RM-1 and TH zoning districts in the Flamingo Park and Espanola Way Historic Districts. Those properties that can demonstrate a current and consistent history of short-term renting, and that such short-term rentals are the primary source of income derived from that unit or building, as defined by the requirements listed below:

- (A) For apartment buildings of four or more units, or for four or more apartment units in one or more buildings under the same City of Miami Beach Resort Tax ("resort tax") account. In order to demonstrate current, consistent and predominant short-term renting, the property must comply with all of the following:

- (i) Have been registered with the city for the payment of resort tax and made resort tax payments as of March 10, 2010; and
- (ii) Have had resort tax taxable room revenue equal to at least 50 percent of total room revenue over the last two-year period covered by such payments; and
- (iii) Have been registered, with the State of Florida as a transient apartment or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.

For properties containing more than one apartment building, eligibility may apply to an individual building satisfying subsections (b)(1)(A)(i)—(iii) above.

- (B) For apartment and townhouse buildings of three or less units, or for three or less apartment units in one or more buildings under the same state license. In order to demonstrate current, consistent and predominant short-term renting, the property must:

- (i) Have been registered with the State of Florida as a resort dwelling or resort condominium pursuant to Chapter 509, Florida Statutes, as of March 10, 2010.
- (2) *Time periods for the districts identified in subsection (b)(1) to apply for short-term rental approvals.*
- (A) Owners demonstrating compliance with subsection (b)(1) above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(f), within a time period of six months from June 19, 2010, or be deemed ineligible to proceed through the process specified herein for legalization of short-term rentals.
- (B) Within three months of June 19, 2010, eligible owners shall apply to obtain all necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.
- (C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code shall be demonstrated by October 1, 2011, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent these officials from undertaking enforcement action prior to such date.
- (D) Applications under this section may be accepted until 60 days after April 11, 2012, upon determination to the planning director that a government licensing error prevented timely filing of the application.
- (3) *Eligibility within the Collins Waterfront Local Historic District.* Owners of property located in the Collins Waterfront Local Historic District shall be eligible to apply for approval of a certificate of use permitting short-term rental of apartment and townhome residential units under the requirements and provisions set forth below:
- (A) Only those properties located south of West 24th Terrace shall be eligible for short-term rentals.
- (B) Only buildings classified as "contributing" in the city's historic properties database shall be eligible for short-term rentals. The building and property shall be fully renovated and restored in accordance with the Secretary of the Interior Guidelines and Standards, as well as the certificate of appropriateness criteria in chapter 118, article X of these Land Development Regulations.
- (C) The property must have registered with the State of Florida as a transient or condominium pursuant to Chapter 509, Florida Statutes, as of the effective date of this ordinance.
- (D) The property must have registered with the city for the payment of resort tax and made resort tax payments as of as of the effective date of this ordinance.
- (E) Short-term rental use shall be based on a single use for the property. No building or property seeking to have short-term rentals will be permitted to have mixed residential uses.
- (F) Any property seeking to have short-term rental will need to demonstrate that there is on-site management, 24 hours per day, seven days a week.
- (G) The short-term rental use requires at least a seven-night reservation.
- (4) *Time period to apply for short-term rental approvals for those properties located in the Collins Waterfront Architectural District.*
- (A) Owners demonstrating compliance with subsection (b)(3), above, shall apply for a certificate of use permitting short-term rental as detailed in subsection 142-1111(e) within a time period of three months from the effective date of this ordinance, or be deemed ineligible to proceed

through the process specified herein for legalization of short-term rentals.

- (B) Within three months of the effective date of this ordinance, eligible owners shall have obtained all the necessary approvals to comply with the Florida Building Code, Florida Fire Prevention Code and with all other applicable life safety standards.
- (C) Compliance with the applicable requirements of the Florida Building Code and Florida Fire Prevention Code, shall be demonstrated by the effective date of this ordinance, or rights to engage in short-term rental under this section shall be subject to restrictions and/or limitations as directed by the building official and/or fire marshal. This subsection shall not prevent the building or fire departments from undertaking enforcement action prior to such date.
- (5) In the event a building approved for short-term rentals in accordance with subsections (b)(3) and (4), above, is demolished or destroyed, for any reason, the future use of any new or future building on that property shall not be permitted to engage in short-term rentals, nor apply for short-term rental approval.
- (c) *Regulations.* For those properties eligible for short-term rental use as per (b) shall be permitted, provided that the following mandatory requirements are followed:
- (1) *Approvals required: applications.* Owners, lessees, or any person with interest in the property seeking to engage in short-term rental, must obtain a certificate of use permitting short-term rental under this section. The application for approval to engage in short-term rentals shall be on a form provided for that purpose, and contain the contact information for the person identified in subsection (3) below, identify the minimum lease term for which short-term rental approval is being requested, and such other items of required information as the planning director may determine. The application shall be accompanied by the letter or documents described in subsection (9) below, if applicable.
- The application for a certificate of use permitting short-term rentals shall be accompanied by an application fee of \$600.00.
- (2) *Time period.* All short-term rentals under this section must be pursuant to a binding written agreement, license or lease. Each such document shall contain, at a minimum: the beginning and ending dates of the lease term; and each lessee's contact information, as applicable. No unit may be rented more frequently than once every seven days.
- (3) *Contact person.* All rentals must be supervised by the owner, manager, or a local and licensed real estate broker or agent or other authorized agent licensed by the city, who must be available for contact on a 24-hour basis, seven days a week, and who must live on site or have a principal office or principal residence located within the districts identified in subsection (b). Each agreement, license, or lease, of scanned copy thereof, must be kept available throughout its lease term and for a period of one year thereafter, so that each such document and the information therein, is available to enforcement personnel. The name and phone number of a 24-hour contact shall be permanently posted on the exterior of the premises or structure or other accessible location, in a manner subject to the review and approval of the city manager or designee.
- (4) *Entire unit.* Only entire apartment units and townhomes, as defined in section 114-1, legally created pursuant to applicable law, may be rented under this section, not individual rooms or separate portions of apartment units or townhomes.
- (5)

Rules and procedures. The city manager or designee may adopt administrative rules and procedures, including, but not limited to, application and permit fees, to assist in the uniform enforcement of this section.

- (6) *Signs.* No signs advertising the property for short-term rental are permitted on the exterior of the property or in the abutting right-of-way, or visible from the abutting public right-of-way.
- (7) *Effect of violations on licensure.* Approvals shall be issued for a one-year period, but shall not be issued or renewed, if violations on three or more separate days at the unit, or at another unit in any building owned by the same owner or managed by the same person or entity, of this section, issued to the short-term rental licensee were adjudicated either by failure to appeal from a notice of violation or a special master's determination of a violation, within the 12 months preceding the date of filing of the application.
- (8) *Resort taxes.* Owners are subject to resort taxes for rentals under this section, as required by city law.
- (9) *Association rules.* Where a condominium or other property owners' association has been created that includes the rental property, a letter from the association dated not more than 60 days before the filing of the application, stating the minimum rental period and the maximum number of rentals per year, as set forth under the association's governing documents, and confirming that short-term rentals as proposed by the owner's application under subsection (c)(1) above, are not prohibited by the association's governing documents, shall be submitted to the city as part of the application.
- (10) *Variations.* No variations may be granted from the requirements of this section.

(d) *Enforcement.*

- (1) Violations of section 142-1111(b) shall be subject to the following fines. The special master may not waive or reduce fines set by this section.
 - A. If the violation is the first violation: \$500.00.
 - B. If the violation is the second violation within the preceding 12 months: \$1,500.00.
 - C. If the violation is the third violation within the preceding 12 months: \$5,000.00.
 - D. If the violation is the fourth violation within the preceding 12 months: \$7,500.00.
 - E. If the violation is the fifth or greater violation within the preceding 12 months: suspension or revocation of the certificate of use allowing short-term rental.

Fines for repeat violations by the same offender shall increase regardless of locations.

- (2) In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
- (3) Any code compliance officer may issue notices for violations of this section, with enforcement of subsection 142-1111(a) and alternative enforcement of subsection 142-1111(b) as provided in chapter 30 of this Code. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records and a courtesy notice to the contact person identified in subsection (c)(3) above.

(Ord. No. 2010-3685, § 1, 6-9-10; Ord. No. 2012-3758, § 1, 4-11-12; Ord. No. 2014-3854, § 3, 4-23-14; Ord. No. 2015-3925, § 1, 2-11-15)

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VERBAL REPORT

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy L. Morales, City Manager
FROM: Joy V. W. Malakoff, Commissioner
DATE: February 3, 2016
SUBJECT: Referral to the Land Use and Development Committee and the Planning Board – a proposed Ordinance setting forth demolition procedures for all single family homes, regardless of the year of construction.

Specifically, before a demolition permit can be issued for the demolition of single family homes built subsequent to 1942, and any non-architecturally significant home built prior to 1942, a building permit process number for the proposed new home must be issued, the permit must be reviewed and approved by the planning department and all applicable permit fees must be paid in full.

Please add the above item to the February 10, 2016 City Commission Consent Agenda for referral to the Land Use Committee on February 12, 2016

If you have any questions, please contact me at extension 6622.

JVWM

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VERBAL REPORT

Cardillo, Lilia

From: Granado, Rafael
Sent: Wednesday, January 20, 2016 8:25 PM
To: Cardillo, Lilia
Subject: Fwd: February agenda
Attachments: image001.jpg; ATT00001.htm; Dania Beach, FL Code of Ordinances.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

From: "Grieco, Michael" <MichaelGrieco@miamibeachfl.gov>
Date: January 20, 2016 at 8:22:28 PM EST
To: "Granado, Rafael" <RafaelGranado@miamibeachfl.gov>
Subject: February agenda

Please place on agenda:

Discussion item and referral to Land Use Committee Regarding CMB Preparations for Likely Passage of State Medical Marijuana Constitutional Amendment

Please include this email and the attached Dania Beach Ordinance with the item

Sec. 19-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant. An individual or business entity desiring to operate a medical marijuana retail center within the city limits.

Business operating name. The legal or fictitious name under which a medical marijuana retail center conducts its business with the public.

Employee. A person authorized to act on behalf of the medical marijuana retail center, whether that person is an employee or a contractor, and regardless of whether that person receives compensation.

Identification tag. A tamperproof card issued by the city to the persons involved with a medical marijuana retail center as evidence that they have passed the background checks and other requirements of this chapter and are authorized to be present on the premises.

Marijuana. Any strain of marijuana or cannabis, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "medical marijuana."

Medical marijuana permit. A permit issued by the city pursuant to this chapter authorizing a business to sell marijuana in the city. Also referred to as "permit."

Medical marijuana retail center. A retail establishment, licensed by the Florida Department of Health as a "medical marijuana treatment facility," "medical marijuana treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses medical marijuana, but does not engage in any other activity related to preparation, wholesale storage, distribution, transfer, cultivation, or processing of any form of marijuana or marijuana product, and does not allow on-site consumption of marijuana. A medical marijuana treatment center shall not be construed to be a medical marijuana retail center.

Medical marijuana treatment center. Any facility licensed by the Florida Department of Health to acquire, cultivate, possess, process (including but not limited to development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transport, sell, distribute, dispense, store, or administer marijuana, products containing marijuana, related supplies, or educational materials, as authorized by state law. A medical marijuana treatment center may include retail sales or dispensing of marijuana. A facility which provides only retail sales or dispensing of marijuana shall not be classified as a medical marijuana treatment center under this chapter. Also may be referred to as a "medical marijuana treatment facility" or "dispensing organization" or other similar term recognized by state law.

Owner. Any person, including any individual or other legal entity, with a direct or indirect ownership interest of five (5) percent or more in the applicant, which interest includes the possession of stock, equity in capital, or any interest in the profits of the applicant.

Premises. The building, within which a medical marijuana retail center is permitted to operate by the city, including the property on which the building is located, all parking areas on the property or that are utilized by the medical marijuana retail center and sidewalks and alleys within one hundred (100) feet of the property on which the medical marijuana retail center is located.

Qualified registered patient/qualified patient. A resident of the State of Florida who has been added to the state's compassionate use registry by a physician licensed under F.S. Ch. 458 or Ch. 459, to receive medical marijuana from a dispensing organization or medical marijuana treatment center or similar use as defined in Florida Statutes.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-2. - Medical marijuana permit and identification tag required.

- (1) It shall be unlawful for any business or person to operate a medical marijuana retail center, or to otherwise offer for sale or in any way participate in the conduct of any activities upon the premises within the city without first obtaining a medical marijuana permit.
- (2) Each person employed in the conduct of such activity shall be screened and approved pursuant to this chapter and required to obtain an identification tag before the medical marijuana retail center opens for business or, for persons who become involved with the center after it is open, before having any involvement in center's activities.
- (3) No medical marijuana permit or identification tag shall be transferable; each person must obtain a medical marijuana permit or identification tag directly from the city.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-3. - Applications for permit; investigation and issuance; term.

- (1) Applications for a medical marijuana permit shall be made by the applicant in person to the city clerk during regular business hours upon such forms and with such accompanying information as may be established by the city. Such application shall be sworn to or affirmed. Every application shall contain at least the following:
 - (a) The business operating name and all applicant and owner information. If the applicant or owner is:
 1. An individual, his or her legal name, aliases, home address and business address, date of birth, copy of driver's license or a state or federally issued identification card;
 2. A partnership, the full and complete name of the partners, dates of birth, copy of driver's license or state or federally issued identification card of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the applicant shall submit the required information for corporate applicant in addition to the information concerning the partnership);
 3. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, and directors, and all aliases used, the capacity of all officers, and directors, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not each corporation is authorized to do business in the State of Florida;

4. The addresses required by this section shall be physical locations, and not post office boxes. The name, home address, and business address of the applicant and the name and an address of all owner(s), if any, other than the applicant. The addresses required by this section shall be physical locations, and not post office boxes.
 - (b) A complete copy of the business' application to the State of Florida and all related exhibits, appendices, and back up materials for approval and licensure as a medical marijuana treatment center.
 - (c) A statement as to whether the applicant or any owner or employee has previously received a medical marijuana permit or identification tag from the city.
 - (d) A statement as to whether the applicant or any owner holds other permits or licenses under this Code and, if so, the names and locations of such other permitted or licensed establishments.
 - (e) A statement as to whether the applicant or any owner has been a partner in a partnership or an officer or director of a corporation whose permit or license issued under this Code has previously been suspended or revoked, including the name and location of the establishment for which the permit or license was suspended or revoked, as well as the date of the suspension or revocation.
 - (f) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business revoked by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such revocation.
 - (g) A statement as to whether or not the applicant or any owner has lost any privilege or had any permit or license to do business suspended by any local, state or federal government and, if so, the nature of such privilege, permit or license and the reason for such suspension.
 - (h) A statement as to whether or not the applicant or any owner or employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.
 - (i) A statement as to whether or not the applicant or any owner or employee has been found guilty of, or have pleaded guilty or nolo contendere to, a felony relating to a battery or a physical violence on any person in this state or in any other state or federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases.
 - (j) A statement as to whether or not the applicant or any owner has filed a petition to have their respective debts discharged by a bankruptcy court having jurisdiction of such cases.
 - (k) Written documentation that the applicant, every owner, and each employee has successfully completed level 2 background screening within the year.
 - (l) A passport photograph of the applicant, every owner, and each employee.
 - (m) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.
- (2) *Rejection of application.* In the event the city determines that the applicant has not satisfied the application requirements for a proposed medical marijuana retail center, the applicant shall be notified of such fact; and the application shall be denied.
 - (3) *Fees.* In addition to demonstrating compliance with this article, the applicant shall pay a nonrefundable application fee in an amount established by resolution of the city commission for each applicant, each owner, and each employee to cover its administrative costs and expenses incurred in reviewing and

administering the permit and identification tag program, irrespective of the issuance or denial of the application. Each applicant shall also pay an annual nonrefundable, nonproratable permit fee in an amount established by resolution of the city commission before receiving a medical marijuana permit.

(4) *Application review.*

- (a) *Investigation.* The city shall refer the application to the chief of police, who shall review the application and documentation provided, and conduct a background screening of the applicant, each owner and employee. Upon receipt of the appropriate documentation, the chief of police shall forward the information and application to the city manager, together with any recommendations and other relevant information from the files regarding the applicant.
- (b) *City manager determination.* Upon receipt of such material from the chief of police, the city manager shall, within thirty (30) days, either:
 - 1. Notify the applicant that the permit has been denied and the reason for such denial; or
 - 2. Issue a permit, with or without conditions.
- (c) *Duration.* Permits shall be issued for a one-year period for a term commencing October 1 or the date of issuance, and ending the following September 30.
- (d) *Denial.* The city shall deny an applicant's application for a medical marijuana permit if:
 - 1. The applicable permit or licensing fees have not been paid in full;
 - 2. The application violates or fails to meet the provisions of this Code, any building, fire or zoning code, statute, ordinance, or regulation;
 - 3. The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be material false information for purposes of denial of the application; the certification that the applicant owns, possesses, operates and exercises control over the proposed or existing medical marijuana retail center is a material representation for purposes of this section;
 - 4. The applicant or any owner has a permit or license under this Code, or has had a permit or license under this Code, which has been suspended or revoked;
 - 5. The granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits effectively the applicant from obtaining a medical marijuana permit;
 - 6. The applicant, an employee, or any owner has been convicted of fraud or felony by any state or federal court within the past five (5) years or less than five (5) years has elapsed since the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - 7. The applicant, an employee, or any owner has obtained any governmental permit by fraud or deceit.
- (e) *Background checks, photograph and identification tag.* In connection with the issuance of a medical marijuana permit by the city, the chief of police shall, upon verification of successful level 2 background screening, cause an identification tag to be issued to each approved applicant for a permit as well as for each owner and each employee. on the face of each identification tag, there shall be placed the following:
 - 1. A photograph of the applicant/owner/employee;
 - 2. The permit number;
 - 3. The permit holder's name and address;

4. The name and address of the medical marijuana retail center that the applicant/owner/employee represents or is employed by; and
 5. The expiration date of the permit.
- (f) *Reapplication.* If a person applies for a medical marijuana permit at a particular location within a period of one (1) year from the date of denial of a previous application for a medical marijuana permit at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.
- (g) *Renewal.* Medical marijuana permits shall be entitled to renewal annually subject to the provisions of this chapter. Before the October 1 expiration date, the annual medical marijuana permit may be renewed by presenting the permit for the previous year, and:
1. Paying the appropriate permit fee;
 2. Updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged; and
 3. Providing proof of continued compliance with all state and city licenses, operational and zoning requirements.
- (h) *Permit transferability.*
1. The medical marijuana permit is specific to the applicant and the location and shall not be transferred.
 2. An attempted transfer of a medical marijuana permit either directly or indirectly in violation of this section is hereby declared void, and in that event the medical marijuana permit shall be deemed abandoned, and the medical marijuana permit shall be forfeited.
- (i) *Violation of regulations.* In the event of a Code violation, violation of the conditions of the medical marijuana permit or special exception approval, or other violation of the laws applicable to the medical marijuana retail center, the city shall issue a warning notice and the applicant shall, no later than twenty (20) business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the city.
- (j) *Illegal transfer.* If a medical marijuana permit is transferred contrary to this chapter, the city shall suspend the medical marijuana permit and notify the permittee of the suspension. The suspension shall remain in effect until all of the requirements of this chapter have been satisfied and a new medical marijuana permit has been issued by the city.
- (k) *Grounds for revocation.* Any medical marijuana permit issued under this article shall be revoked if any one or more of the following occurs:
1. The applicant provides false or misleading information to the city;
 2. Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any marijuana or marijuana product to an individual or entity not authorized by state law to receive such substance or product;
 3. The applicant, an owner or a manager is convicted of a felony offense;
 4. Any applicant, owner, manager or employee is convicted of any drug-related crime under Florida Statutes;
 5. The applicant fails to correct any City Code violation or to otherwise provide an action plan to remedy the violation acceptable to the city manager within twenty (20) days of citation;
 - 6.

The applicant fails to correct any state law violation or address any warning in accordance with any corrective action plan required by the state within the timeframes and completion date the applicant provided to the city;

7. The applicant's state license or approval authorizing the dispensing of medical marijuana expires or is revoked; or
 8. Any special exception approval granted by the city for the use of a medical marijuana retail center at a particular location expires or is revoked.
- (l) *Revocation.* In the event the city determines there are grounds for revocation as provided in this chapter, the city shall notify the permittee of the intent to revoke the medical marijuana permit and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this chapter. If the permittee fails to show compliance with this chapter within ten (10) business days, the city shall schedule a hearing before the special magistrate. If the special magistrate determines that a permitted medical marijuana retail center is not in compliance with this chapter the city shall revoke the medical marijuana permit and shall notify the permittee of the revocation. nothing in this section shall take away other enforcement powers of the special magistrate or any other agency provided by the Code or statute.
- (m) *Effect of revocation.*
1. If a medical marijuana permit is revoked, the permittee shall not be allowed to obtain another medical marijuana permit for a period of two (2) years, and no medical marijuana permit shall be issued during that time period to another applicant for the location and premises upon which the medical marijuana retail center was situated.
 2. The revocation shall take effect fifteen (15) days, including Saturdays, Sundays, and holidays, after the date the city mails the notice of revocation to the permittee or on the date the permittee surrenders his or her medical marijuana permit to the city, whichever occurs first.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-4. - General requirements.

Each medical marijuana retail center shall observe the following general requirements:

- (1) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local;
- (4) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to the City Land Development Code;
- (5) Keep the original of the medical marijuana permit posted in a conspicuous place at the premises at all times, which medical marijuana permit shall be available for inspection upon request at all times by the public.

(Ord. No. 2014-015, § 3, 10-28-14)

Sec. 19-5. - Medical marijuana permit operation requirements.

Any business operating under a medical marijuana permit shall comply with the following operational guidelines.

- (1) *Hours of operation.*
 - a. Operation is permitted only between the hours of [8:00 a.m. and 5:00 p.m. Monday through Saturday].
 - b. No operation is permitted on Sundays or state or federal holidays.
- (2) *On-site consumption of marijuana.* No medical marijuana retail center shall allow any marijuana to be smoked, ingested or otherwise consumed on the premises. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall smoke, ingest or otherwise consume marijuana on the premises.
- (3) *Alcohol prohibited.* No medical marijuana retail center shall allow the sale, service, or consumption of any type of alcoholic beverages on the premises including in the surrounding rights-of-way. The medical marijuana retail center shall take all necessary and immediate steps to ensure compliance with this paragraph. No person shall consume an alcoholic beverage on the premises, including the surrounding rights-of-way.
- (4) *Outdoor activity.* There shall be no outdoor displays, sales, promotions, or activities of any kind permitted on the premises, including the surrounding rights-of-way. All activities and business shall be conducted within the confines of the permanent building containing the medical marijuana retail center.
- (5) *On-site storage.* There shall be no on-site storage of any form of marijuana or marijuana product, except as reasonably necessary for the conduct of the medical marijuana retail center's on-site business.
- (6) *Live plant materials.* No living marijuana plants are permitted on the site of a medical marijuana retail center.
- (7) *Maintenance of premises.* A medical marijuana retail center shall actively remove litter at least twice each day of operation on the premises, from the premises, the area in front of the premises, from any parking lot used by its patrons, and, if necessary, from public sidewalks or rights-of-way within one hundred (100) feet of the outer edge of the premises used by its patrons.
- (8) *Garbage.* Refuse or waste products incident to the distribution of marijuana shall be destroyed on-site at least once every twenty-four (24) hours.
- (9) *Delivery.* All deliveries to the medical marijuana retail center shall be made during regular operating hours while on-site security personnel are present.
- (10) *Security.* With the application, the applicant shall submit a security plan demonstrating compliance with F.S. § 381.986, and all other applicable statutes and State administrative rules.
 - a. In addition to proving compliance with all state requirements, the security plan shall, at a minimum, provide the following:
 1. Fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in the surrounding rights-of-way, including:
 - a. A silent security alarm that notifies the police department or a private security agency that a crime is taking place;
 - b. A vault, drop safe or cash management device that provides minimum access to the cash receipts; and

- c. A security camera system capable of recording and retrieving an image which shall be operational at all times during and after business hours. The security cameras shall be located:
 - (i) At every ingress and egress to the dispensary, including doors and windows;
 - (ii) On the interior where any monetary transaction shall occur; and
 - (iii) At the ingress and egress to any area where medical marijuana is stored;
- 2. Traffic management and loitering controls;
- 3. Cash and inventory controls for all stages of operation on the premises, and during transitions and delivery.
- 4. On-site armed security personnel during business hours.
- b. The chief of police shall review the applicant's operational and security plan using Crime Prevention Through Environmental Design (CPTED) principles. The chief may impose site and operational revisions as are deemed reasonably necessary for the health, safety and general welfare of the applicant, owner(s), employees, customers, adjacent property owners and residents, which may include items such as methods and security of display and storage of marijuana and cash, limitations on window and glass door signage, illumination standards, revisions to landscaping, and any other requirement designed to enhance the safety and security of the premises.
- (c) Any instance of breaking and entering at a medical marijuana retail center, regardless of whether marijuana or marijuana-based products are stolen, shall constitute a violation of this chapter if the security alarm fails to activate simultaneous with the breaking and entering.
- (11) *Odor and air quality.* A complete air filtration and odor elimination filter and scrubber system shall be provided ensuring the use will not cause or result in dissemination of dust, smoke, or odors beyond the confines of the building, or in the case of a tenant in a multi-tenant building, beyond the confines of the occupied space. A double door system shall be provided at all entrances to mitigate odor intrusion into the air outside the medical marijuana retail center.
- (12) *Delivery vehicle identification.* For security purposes, no vehicle used in the operation of or for the business purposes of a medical marijuana retail center shall be marked in such a manner as to permit identification with the medical marijuana retail center.
- (13) *Signage.* Notwithstanding other provisions of the Code, signage for a medical marijuana retail center shall be limited as follows:
 - a. Graphics, logos and symbols shall be prohibited;
 - b. Neon shall be prohibited;
 - c. Signs shall not be internally illuminated;
 - d. Signs may be externally illuminated consistent with the requirements of section 505-30, only during hours of operation;
 - e. A medical marijuana retail center shall post, at each entrance to the medical marijuana retail center the following language:
 ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR CAREGIVER IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA RETAIL CENTER.

The required text shall be in letters one-half inch in height.

- (14) *On-site community relations contact.* The medical marijuana retail center shall provide the city manager, and all property owners and tenants located within one hundred (100) feet of the entrance to its premises, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours and after business hours to report operating problems. The medical marijuana retail center shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or other city officials.
- (15) *Employment restrictions.* It shall be unlawful for any medical marijuana retail center to employ any person who:
- Is not at least twenty-one (21) years of age; and
 - Has not passed a level 2 background screening.
- (16) *Persons allowed to enter the premises.*
- Underage entry.* It shall be unlawful for any medical marijuana retail center to allow any person who is not at least eighteen (18) years of age on the premises during hours of operation, unless that person is authorized by state law to purchase medical marijuana, whether as a qualified patient with a valid identification card or primary caregiver or legal guardian of a qualified patient with a valid identification card.
 - Entry by persons authorized by state law.* It shall be unlawful for any medical marijuana retail center to allow any person on the premises during the hours of operation if that person is not authorized by state law to be there. Authorized persons, such as owners, managers, employees and qualified registered patients, their legal guardians, qualified registered caregivers must wear an identification tag, and authorized inspectors and authorized visitors must wear a visitor identifying badge and be escorted and monitored at all times by a person who wears his or her identification tag.
- (17) *Product visibility.* No marijuana or product of any kind may be visible from any window or exterior glass door.
- (18) *Sole business.* No business other than the dispensing of medical marijuana shall be permitted to be conducted from the premises.
- (19) *Loitering.*
- A medical marijuana retail centers shall provide adequate indoor seating for its customers, clients, patients and business invitees.
 - Customers, clients, patients or business invitees shall not be directed, encouraged or allowed to stand, sit (including in a parked car for any period of time longer than reasonably required for a person's passenger to conduct their official business and depart), or gather or loiter outside of the building where the center is operating, including in any parking areas, sidewalks, rights-of-way, or neighboring properties.
 - Pedestrian queuing or loitering at any time, including prior to business hours, outside of the center's building is prohibited.
- (20) *Compliance with state regulations and licensure requirements.* A medical marijuana retail center must comply with all federal and state laws, licensing and regulatory requirements.
- A medical marijuana retail center shall notify the city within five (5) business days of receipt of any notice of violation or warning from the state or of any changes to its state licensing approvals.
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If a medical marijuana retail center receives a notice of violation or warning from the state, it shall, no later than twenty (20) business days after receipt of the notice, provide a copy of the corrective action plan and timeframes and completion date to address the identified issues to the city.

- (21) *Prohibited activities.* A medical marijuana retail center shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of marijuana or marijuana product, and on-site consumption of any marijuana or marijuana product is specifically prohibited at a medical marijuana retail center. On-site storage of any form of marijuana or marijuana product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.

(Ord. No. 2014-015, § 3, 10-28-14)

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VERBAL REPORT

LAND USE AND DEVELOPMENT COMMITTEE PENDING ITEMS
FOR INFORMATIONAL PURPOSES ONLY

	Referral Date	Title	Referred By	Date Last On LUDC Agenda	Automatic Withdrawl Date Per Reso No.	Comments
1.	07-08-15 Item C4D	Discussion Pertaining To Main Use Parking Structure Height Limits On Terminal Island.	City Commission	01-20-16	2013-28147	Item Withdrawn

