

**ORDINANCE NO. 2021-007**

**AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE VILLAGE'S CODE OF ORDINANCES AND UNIFIED LAND DEVELOPMENT CODE OF ORDINANCES TO ESTABLISH RESILIENCE AND SUSTAINABILITY CODE PROVISIONS BY MODIFYING CHAPTER 3, "DEFINITIONS", CHAPTER 8 ZONING, GENERAL SITE DESIGN STANDARDS, CHAPTER 10 FLOOD DAMAGE PROTECTION, CHAPTER 91 ANIMALS AND CHAPTER 100 TREE PRESERVATION AND PROTECTION PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, North Bay Village (the "Village") strives to develop policies and initiatives that make the Village, its residences, buildings, and infrastructure resilient against flooding, significant weather events, sea level rise, and other consequences of climate change and that create sustainable environmental practices, so as to protect all property within the Village and the future quality of life of Village residents; and

**WHEREAS**, the Village's Resilience and Sustainability Committee has worked with staff to develop a variety of policy recommendations that seek to update the Village's Code of Ordinances and Unified Land Development of Ordinances, making our code more resilient; and

**WHEREAS**, the Mayor and Commission believe that this Ordinance is in the best interest of the Village, as it advances the health, safety, and wellness of the community

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

**Section 2. Village Code Amended.** Chapter 3 of the Unified Land

Development Code of Ordinances is hereby amended as provided in Exhibit “A”, which is incorporated herein and made a part hereof by this reference.

**Section 3. Village Code Amended.** Chapter 8 of the Unified Land Development Code of Ordinances is hereby amended as provided in Exhibit “B”, which is incorporated herein and made a part hereof by this reference.

**Section 4. Village Code Amended.** Chapter 9 of the Unified Land Development Code of Ordinances is hereby amended as provided in Exhibit “C”, which is incorporated herein and made a part hereof by this reference.

**Section 5. Village Code Amended.** Chapter 10 of the Unified Land Development Code of Ordinances is hereby amended as provided in Exhibit “D”, which is incorporated herein and made a part hereof by this reference.

**Section 6. Village Code Amended.** Chapter 91 of the Code of Ordinances is hereby amended as provided in Exhibit “E”, which is incorporated herein and made a part hereof by this reference.

**Section 7. Village Code Amended.** Chapter 100 of the Code of Ordinances is hereby amended as provided in Exhibit “F”, which is incorporated herein and made a part hereof by this reference.

**Section 8. Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 9. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the

validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 10. Inclusion in Code.** The provisions of this Ordinance shall become and be made a part of the Village Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word

**Section 11. Implementation.** The Village Manager, Village Attorney, and Village Clerk are hereby authorized to take such further action as may be needed to implement the purpose and provisions of this Ordinance

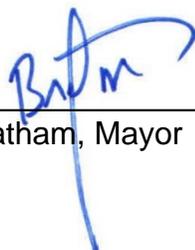
**Section 12. Effective Date.** That this Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner Strout, who moved its adoption on first reading. This motion was seconded by Vice Mayor Wilmoth and upon being put to a vote, the vote was as follows:

Mayor Brent Latham	Yes
Vice Mayor Marvin Wilmoth	Yes
Commissioner Richard Chervony	No
Commissioner Rachel Streitfeld	Yes
Commissioner Julianna Strout	No

**PASSED** on first reading on this 9<sup>th</sup> of February, 2021.

**PASSED AND ENACTED** on second reading on this 9<sup>th</sup> of March, 2021.

  
\_\_\_\_\_  
Brent Latham, Mayor

ATTEST:

  
\_\_\_\_\_  
Elora Riera, MMC  
Village Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Village Attorney

## CHAPTER 3, DEFINITIONS

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

*Accessory building.* A detached subordinate building or a portion thereof, the use of which is incidental to or customary in connection with the main building or use and which is located on the same lot with such main building.

*Accessory use.* A subordinate use, which is incidental to or customary in connection with the main building or use and is located on the same lot with such main building use.

*Acre, gross.* 43,560 square feet.

*Acre, net.* That portion of a gross acre exclusive of dedication for official rights-of-way and other easements.

*Assisted living facility.* Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator

*Advertising structure.* Any rigid or semi-rigid material, with or without a sign displayed thereon, situated on or attached to real property or mobile objects and vehicles outdoors for the purpose of furnishing a background, base, or support on which a sign may be posted or displayed.

*Aggregate area or aggregate width.* The sum of two or more designated areas or widths to be measured, limited, or determined under these regulations.

*Alcoholic beverage.* As defined by Section 561.01(4), Florida Statutes.

*Alley.* A public or private road which affords only a secondary means of access to abutting property and which is not otherwise designated as a street.

*Amusement center.* Any indoor place or enclosure which contains three or more amusement devices of any description, including but not limited to pinball games, computer games, or games of chance for the public amusement, patronage or recreation.

*Apartment.* A room or group of rooms within a multifamily dwelling arranged or designed to be used as a home or residence for one family, with kitchen or kitchenette and bathroom for the exclusive use of the one family.

*Apartment, efficiency.* A dwelling unit consisting of not more than one habitable room, with kitchen or kitchenette and bathroom.

*Apartment hotel.* A multi-family residential building designed for or containing both apartments and individual guest rooms or rental units under resident supervision, and which maintains an inner lobby through which all tenants must pass to gain access to apartments, rooms, or units.

*Arterial street.* A street designated as a major arterial street on the circulation plan for the Village.

*Auction market.* Any premises on which are held, either regularly or periodically, auction sales of merchandise or personal property.

*Automobile rental agency.* An establishment whose primary purpose is the renting or leasing of passenger vehicles to the public.

**Awning.** A detachable, roof like cloth or metal cover, supported from the walls of a building for protection from sun or weather.

**Bar.** An establishment devoted to selling or dispensing any alcoholic beverages, or any place where a sign is displayed indicating that alcoholic beverages are obtainable for consumption on the premises, and where, if entertainment is provided, it is by no more than one person at a time.

**Barrier.** A fence, dwelling wall or non-dwelling wall or any combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.

**Barrier requirements.** Swimming pools shall comply with all the requirements set forth under the building and zoning requirements as set forth in the Village's ordinances and the Florida Building Code.

**Basement.** That portion of a building between the floor and ceiling which has at least one-half of its height below the grade of the adjoining ground, and the ceiling of which is not more than four feet six inches above grade.

**Beer.** As defined in Section 563.01, Florida Statutes.

**Bioswale.** A storm water runoff conveyance system that provide an alternative to storm sewers. Bioswales absorb low flows or carry runoff from heavy rains to storm sewer inlets or directly to surface waters. Bioswales improve water quality by infiltrating the first flush of storm water runoff and filtering the large storm flows they convey.

**Biscayne Bay:** Encompasses all of Biscayne Bay and all associated tributaries of the Bay within the Village limits of North Bay Village.

**Block.** The length of a street between two street intersections.

**Board.** The Planning and Zoning Board, which is that duly, designated advisory board charged with reviewing Village planning, zoning, and beautification matters.

**Boundary of district.** The centerline of a street or right-of-way; also the centerline of the alleyway between the side or rear property lines, or where no alleyway or passageway exists, the rear or side property lines of all lots bordering on any district limits.

**Breezeway.** A covered passageway or space between the main building and an accessory building open on two sides, and the roof of which is structurally integrated with the buildings it separates.

**Building.** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons on property.

**Building width.** The width of the lot left to be built upon after the required side yards are provided.

**Building.** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

**Building completely enclosed.** A building having no outside openings other than ordinary doors, windows, and ventilators.

**Building line.** That line between which and the distance on the lot parallel and back from the street line, in which no building or part thereof may be erected, except as provided in these regulations.

**Building Official.** The Village official responsible for building inspection and the issuance of permits in this respect, or a duly authorized person acting in the same capacity.

**Bulk.** A term used in these regulations to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

**Bulkhead.** A wall constructed along the bay to retain or resist lateral displacement of any material back of it. For the purpose of this chapter, the bayside face of the established bulkhead cap shall be regarded as the point of measurement for setback requirements of all structures fronting on the bay.

**Cabana.** An accessory structure, usually in connection with a swimming pool.

**Cabaret.** A bar, which provides entertainment and which may or may not serve food, and which, is accessory to a hotel, motel, or other building as provided in these regulations.

**Cafeteria.** See Restaurant.

**Canopy.** A detachable, roof like cloth or metal cover supported from the ground, deck, or floor of a building, and from the walls of a building, for protection from sun or weather.

**Carwash.** Any building or structure, which uses specialized mechanical devices for the washing of motor vehicles.

**Centerline, street.** A line parallel or nearly parallel to the right-of-way lines of a street and halfway between them as established by the Building and Zoning Official.

**Certified survey.** A survey, sketch, plan, map, or other exhibit is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed by the specific professional engineer, registered surveyor, architect, or other legally recognized person.

**Child care.** See Day care nursery.

**Clinic.** An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals.

**Club, private.** Building and a facilities or premises used or operated by an organization or association for some common purpose, such as but not limited to a fraternal, social, educational, or recreational purpose, but not including clubs organized primarily for profit or to render a service, which is customarily carried on as a business. Such organizations and associations shall be incorporated under the laws as a non-profit corporation and the major purpose of such corporations shall not be for the purpose of serving alcoholic beverages to its members or others.

**Coffee shop, Snack bar, or Sandwich shop.** An establishment where sandwiches, coffee, soft drinks, tea, or similar foods are served, but having no kitchen facilities.

**Commercial school.** A training institution operated on a profit or non-profit basis offering instruction in stenographic, secretarial, bookkeeping, and related business skills; offering training in electronic data processing techniques, skills, or equipment repair; or offering training leading to proficiency in a vocational skill.

**Concurrency.** State law requiring that infrastructure be in place before development occurs.

**Convalescent home.** A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

Cool pavement. A surface that uses additives to reflect solar radiation unlike conventional dark pavement. Conventional dark pavements contribute to urban heat islands as they absorb 80–95% of sunlight and warm the local air. In addition to conventional streets and roads, cool pavement can be a surface of a parking lot, driveway, accessway, trail or other improved pathways. Cool pavement is also referred to as a white road.

Cool roof. A roof that has been designed to reflect more sunlight and absorb less heat than a standard roof. Cool roofs can be made of a highly reflective type of paint, a sheet covering, or highly reflective tiles or shingles. A high solar reflectance—or albedo—is the most important characteristic of a cool roof as it helps to reflect sunlight and heat away from a building, reducing roof temperatures. Cool roof is also referred to as a white roof.

*Customer service area.* Inside/outside seating areas for restaurants, bars, lounges exclusive of kitchen, office, hallways, storage, and similar building areas.

*Day care nursery.* An establishment providing care of children during the day, but not overnight, including four or more children not members of the resident family; nurseries for children of working mothers; kindergartens; nursery schools for children under the minimum age for admission to public schools, or for after-school care of school children; and other establishments of a similar nature.

*District.* Any section of the Village within which the zoning regulations are uniform.

*Drive-in or Drive-through.* An establishment that, by design, physical facilities, service, or packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

*Dwelling.* A building or portion thereof, designed or used exclusively for residential occupancy, but not including mobile homes.

*Dwelling, single-family.* A private residence building used or intended to be used as a home in which all living areas are accessible to each other from within the building, and which shall have sleeping quarters, kitchen facilities, bathroom, ventilation, and lighting under control of and designed for the exclusive use of one family.

*Dwelling, single-family detached.* A single-family dwelling surrounded by yards or other open spaces on the same lot.

*Dwelling, multifamily.* A building designed for or occupied by three or more families.

*Dwelling, efficiency.* A residential unit, which is comprised of a single room for sleeping and cooking, exclusive of a bathroom.

*Dwelling, hotel room.* A residential unit, which is used on a temporary basis by transient guests.

*Dwelling, hotel suite.* A group of hotel rooms connected together.

*Dwelling unit.* A room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household, or by a person living alone.

Electric vehicle charging station. A parking space that is reserved for and served by electric vehicle charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy source device in an electric vehicle.

*Energy Star®.* A government-backed labeling program that helps people and organizations save money and reduce greenhouse gas emissions by identifying factories, office equipment, materials, home appliances and electronics that have superior energy efficiency. Energy Star is a joint program of the US Environmental Protection Agency (EPA) and the US Department of Energy (DOE).

*Essential services.* The erection, construction, alteration, or maintenance by a public utility or municipal agency of underground or overhead transmission, distribution, or collection systems necessary for the furnishing of adequate service by that utility or agency to the use on the same lot or the surrounding neighborhood of, for the public health, safety, or general welfare.

*Family.* An individual or two or more persons related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

*Fast order food.* Food which is primarily included for immediate consumption; available upon a short waiting line; packaged or preserved in such a manner that it can be readily eaten outside the premises where it is sold; served on paper plates or in paper or styrofoam containers; and of a self-service nature, that is, no waiters or waitresses are involved. Patrons phone in or place their order at a counter and take it to a table on the premises or leave the premises.

*Fence.* A structure forming a physical barrier which is so constructed that no less than 50% of the vertical surface is open to permit the transmission of light, air, and vision through the surface in a horizontal plane. (For board and other solid barriers, see Wall)

*Floor area.* The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings. However, for the purposes of those regulations, the Gross floor area of a building shall not include:

- A. Basement space; however, basement space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- B. Accessory water tanks or cooling towers.
- C. Uncovered steps and exterior balconies.
- D. Attic space, whether or not a floor actually has been laid, providing structural headroom of less than seven feet six inches.
- E. Terraces, breezeways, screen enclosures, or open porches.
- F. Floor space used for permitted or required accessory off-street parking, in any building except single-family and two-family dwellings or buildings accessory thereto.

*Florida Green Building Coalition (FGBC).* A Florida nonprofit corporation dedicated to improving the built environment. The FGCB administers the green design standards of the FGBC's building and community rating systems and administers the FGBC Certifying Agents accreditation program.

*Frontage, lot.* The distance for which the front lot line and the street line are coincident.

*Garage, parking.* A building or portion thereof used for indoor parking of private passenger vehicles for use of residents in the vicinity.

*Garage, repair.* An establishment or portion thereof used for the equipping, servicing, repairing, hiring, selling, storing, or parking of motor-driven vehicles. The term Repairing shall not include

an automotive body repair shop or the rebuilding, dismantling, or storage of wrecked or junked vehicles.

*Garage, storage.* A building or portion thereof, designed or used exclusively for term storage of motor-driven vehicles, as distinguished from daily storage, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

*Grade.* The highest elevation of a paved street in front of any property.

*Green building.* A sustainable or high-performance building. The practice of creating structures and using processes that are environmentally responsible and resource-efficient throughout a building's life-cycle from siting to design, construction, operation, maintenance, renovation and deconstruction. This practice expands and complements the classical building design concerns of economy, utility, durability, and comfort.

*Green building feature.* These are features that are specific to and serve an individual project or building and include features such as green walls, green roof, electric vehicle charging stations, photovoltaic systems, solar water heating systems, bicycle racks and storage, and wind turbines.

*Green infrastructure.* This is also known as Low Impact Development (LID). This is an approach to water management that protects, restores, or mimics the natural water cycle. Conventional piped drainage and water treatment systems referred to as grey infrastructure are designed to move urban stormwater away from the built environment, green infrastructure reduces and treats stormwater at its source while delivering environmental benefits. A rain garden is an example of green infrastructure or LID.

*Green roof.* The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional components such as a root barrier, drainage and irrigation system, and soil containment. This is also referred to as a living roof.

*Green wall.* An internal or external wall partially or completely covered with vegetation that includes a support structure and growing medium, and an integrated water delivery system. This is also referred to as a living wall or vertical garden.

*Grow house.* A grow house is a property, usually located in a residential neighborhood, that is primarily used for the production of marijuana but may also be used as a dwelling. The houses are typically outfitted with equipment to provide water, food, and light to the marijuana plants, and the houses themselves are usually kept in good condition to blend in with the neighborhood. Illegal electrical hookups are a common feature of grow houses, to both save money and to make it harder for authorities to identify them due to their unusually high electrical usage.

*Guest house.* Living quarters within a detached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

*Hardship, necessary.* Restrictions upon the uses of a particular property which promote the objectives of these regulations, provided such restrictions apply to all land within the same district (e.g. if commercial uses are prohibited in a district, this may result in a hardship to the property owners; but it is a hardship which is necessary to the purpose of this chapter in the first place).

*Hardship, unnecessary.* Arduous restrictions upon the uses of a particular property, which are unique and distinct from that of adjoining property owners. Granting of relief from an unnecessary hardship should not violate sound zoning principles, including considerations that: adjacent properties will not be substantially reduced in value, it is not granting a special privilege not to be enjoyed by others in similar circumstances, and the public interest is maintained, including following the spirit of this chapter and the comprehensive master plan. Invalid and nonjustifiable bases for pleading unnecessary hardship include but are not limited to:

- A. Loss of the "best" use of the land, and business competition.
- B. Self-created hardships by the applicant's own acts.
- C. Neighboring violations and nonconformities.
- D. Claims of inability to sell the property.
- E. General restrictions of this chapter.

*Hedge.* A row of bushes or small trees planted close together in such a manner as to form a boundary or barrier.

*Height of building.* The vertical distance from the grade to: the highest point of a flat roof; the deck line of a mansard roof; the average height between eaves and ridge or gable, hip, and gambrel roofs; or the average height between high and low points of a shed roof.

*Home occupation.* Any activity for which an occupational license of the Village is required by law, which is conducted within a dwelling unit in a residential district.

*Hospital.* A building or group of buildings having room facilities for one or more overnight patients, used for providing services for the in-patient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient departments, and training facilities. A central service facility must be an integral part of the hospital operations.

*Hotel.* A building in which lodging is provided and offered to the public for compensation, and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times.

*House of worship.* A church, synagogue, or other structure used on a permanent basis primarily for the worship of God.

*Kennel.* The keeping of more than three dogs or other animals for breeding, training, sale, or boarding.

*Kitchen facilities.* Any form or mechanical refrigeration or cooking equipment except a portable mini-refrigerator, portable microwave oven and coffee-maker.

*Junkyard or Salvage yard.* Any area or structure used or intended to be used for the conducting and operating of the business of selling, buying, storing, or trading in used or discarded metal, glass, cordage, or any used or disabled fixtures, vehicles, or equipment of any kind.

LED. This stands for light emitting diode. The LED lighting products produce light up to 90% more efficiently than incandescent light bulbs.

LEED. This stands for the Leadership in Energy and Environmental Design green building certification and rating system of the United States Green Building Council (USGBC).

*Loading space.* A space within the main building or in the same lot providing for the standing, loading, or unloading of trucks.

*Lot.* Land occupied or intended for occupancy by a use permitted in these regulations, including one main building together with its accessory buildings, and the yards, loading, and parking spaces required herein and having its principal frontage upon a street or upon an officially approved place.

*Lot area.* The total horizontal area within the lot lines of the lot.

*Lot, corner.* A lot abutting upon two or more streets at their intersection.

*Lot coverage or Ground coverage.* The area of the lot occupied by the ground floor of all buildings, main and accessory, measured from the exterior faces of exterior walls, or from the exterior faces of supporting exterior columns for any portion of the ground floor not enclosed by exterior walls or from the centerline of walls separating two buildings.

*Lot depth.* The mean horizontal distance between the front and rear lot lines.

*Lot, interior.* A lot, other than a corner lot.

*Lot line.* The boundary line of a lot.

*Lot of record.* A parcel of land shown on a recorded plat or any parcel of land described by a legally recorded deed.

*Lot, through (double frontage).* An interior lot having frontages on two parallel or approximately parallel streets.

*Lot width.* The horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line.

*Low Impact Development (LID).* An approach to land development (or re-development) that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product.

*Lumen.* A unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle.

*Marijuana.* Marijuana is defined as Cannabis, meaning all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

*Marijuana-based product.* A marijuana-based product means a product that contains marijuana or any of its derivatives, including, but not limited to, tonics, tinctures, balms, salves, lotions, sprays, ointments, drinks, foods, and pills.

*Marijuana dispensary.* A marijuana dispensary is a facility where marijuana or marijuana-based products are made available for medical purposes in accordance with Florida law. A marijuana dispensary may also be defined as a “dispensing organization” as provided in Section 381.986(1), Florida Statutes. Any medical marijuana treatment center at which marijuana or marijuana-based products are dispensed as part of a program of medical treatment shall be included within the definition of a marijuana dispensary.

*Marina.* Any area where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or house boats in water, or to be used for living quarters either temporarily or on a permanent basis.

*Mezzanine.* An intermediate floor in any story or room with a floor area not exceeding one-third the total floor area in that room or story in which the mezzanine occurs and with a clear height above or below the mezzanine floor construction of not less than seven feet.

*Mixed occupancy or use.* Occupancy of a building or land for more than one use.

*Mobile home.* Any unit used for living or sleeping purposes which is equipped with wheels or some device for the purpose of transporting the unit from place to place, whether by motive power or other means, or any unit used for temporary living or sleeping purposes temporarily located in the locality, whether it is on blocks, posts, or any other type of foundation.

*Mobile marijuana dispensary.* A mobile marijuana dispensary is any legal entity, clinic, cooperative, club, business, or group which transports, delivers, or arranges the transportation or delivery, of marijuana or marijuana-based products to any person.

*Motel.* A building in which lodging is provided and offered to the public for compensation. Accommodations are usually designed to serve tourists traveling by automobile. Ingress and egress to rooms need not be through a lobby or office, and parking usually is adjacent to the guest room.

*National Green Building Standard™ (NGBS).* A green building certification program that provides independent, third-party verification that a home, apartment building, or land development is designed and built to achieve high performance in six key areas: Site Design, Resource Efficiency, Water Efficiency, Energy Efficiency, Indoor Environmental Quality, and Building Operation and Maintenance. The NGBS administers the NGBS Green Verifier program.

*Nightclub.* An establishment defined by section 111.01 of this Code.

*Nonconforming use.* The lawful use of land or a building or portion thereof, which use does not conform with the use regulations of the district in which it is located.

*Nursing home facility:* Any facility which provides nursing services as defined in part I of Florida Statute chapter 464 and which is licensed according to this part.

*Occupancy.* A condition of an activity or use being upon a lot and/or within a building.

*Official rights-of-way.* A right-of-way established by ordinance.

*Open space.* That portion of a lot which:

- A. Is open and unobstructed from grade upward.
- B. Is accessible without restrictions except as may be required for safety.
- C. Is of a pervious nature.

*Outdoor dining.* A use characterized by outdoor table service of food and beverages prepared for service in an adjacent or attached main restaurant for consumption on the premises. The term also includes outdoor bars and outdoor ice cream parlors.

*Parcel.* A piece of land assembled for a single purpose.

*Parking space, off-street.* An all-weather surfaced area, exclusive of streets, alleys, and driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by an all-weather surfaced driveway, which affords ingress and egress for a vehicle without requiring another vehicle to be moved. When developing single lot sites under the PRD regulations found in Section 8.10(D)(9), mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

*Penthouse.* Any structure above the main roof of a building used for residential, professional, or commercial purposes, or for housing elevator machinery and water storage tanks. Each story of a penthouse, except when used for machinery or a storage for water, is considered as an additional story to the height of the building.

*Permit, building.* A certificate issued by the Building Official authorizing the construction, reconstruction, remodeling, alteration, or repair of a building or other structure, upon approval of the submitted application and plans.

*Pervious area.* The surface area of a parcel, which is capable of being penetrated by water.

*Photovoltaic solar system.* A power system designed to generate useable electricity from sunlight through the process of converting light (photons) to electricity (voltage); which is called the PV effect. Photovoltaic solar systems, also called solar cells or PV cells, convert sunlight into electricity.

*Planning and zoning board.* The Planning and Zoning Board of the Village, as established by this chapter.

*Premises.* A lot, together with all buildings and structures thereon.

*Principal building.* The building within which the principal, predominant, or main use or activity upon the lot is conducted. In the event more than one building is upon one lot, the one containing the greatest floor area is the "principal building."

*Principal use.* The predominant activity or use conducted within a particular building or upon a particular lot.

*Public use.* Any public building, structure, or land used primarily for public or quasi-public purposes where the building, structure, or land is not privately owned or operated.

*Rain barrel.* A containment devise to capture rainwater from a roof and hold it for later use such as on lawns, gardens or indoor plants.

*Rain garden.* A depressed area in the landscape that collects rainwater from a roof, driveway or street and allows it to soak into the ground. Rain gardens are planted with ornamental grasses and flowering perennials, this is an example of green infrastructure.

*Regulations.* The whole body of regulations, charts, tables, diagrams, maps, notations, references, and symbols, contained in or referred to in this chapter.

*Restaurant.* An establishment in which food is prepared and served for compensation.

*Right-of-way.* See Street line.

*Screen enclosure.* A frame of metal, wood, or other approved structural material supporting no roof or walls, with only approved insect screening, which screening possesses at least 50 percent open area per square inch.

*Service station.* An establishment devoted to the retail sale of motor vehicle fuels, oils, or accessories or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting.

*Setback.* The minimum horizontal distance between the street and the building; the lot bulkhead or water line and the building; or the side lot lines and the building.

*Shopping center.* One or more retail stores, commercial buildings, or an office complex with a unified plan or architectural scheme, on a single parcel of land or on separate parcels contiguously arranged.

SITES. A comprehensive program for designing, developing and maintaining sustainable landscapes. The SITES certification program is based on a rating system that helps conserve, restore and create the benefits provided by healthy ecosystems. SITES is administered by Green Business Certification Inc. (GBCI) and is a complement to the USGBC LEED green building rating system.

Solar reflectance index (SRI). A measure of the solar reflectance and emissivity of materials that can be used as an indicator of how hot they are likely to become when solar radiation is incident on their surface. The lower the SRI, the hotter a material is likely to become in the sunshine. SRI is defined so that a standard black surface (reflectance 0.05, emittance 0.90) is 0 and a standard white surface (reflectance 0.80, emittance 0.90) is 100.

Solar water heater. A water heating system that heats water through solar collector tubes typically located on a roof. Solar water heating systems include storage tanks and solar collectors. There are two types of solar water heating systems: active, which have circulating pumps and controls, and passive, which do not have pumps.

*Story.* That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor next above it, then the space between the floor and the ceiling next above it.

*Story, half.* A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished for use. A half-story containing independent apartments or living quarters shall be counted as a full story.

*Street.* A public thoroughfare which affords the principal means of access to abutting property.

*Street, collector.* A public thoroughfare which collects traffic from residential areas for distribution to a major arterial, as defined on the North Bay Village Circulation Plan.

*Street or right-of-way line.* A dividing line between a lot and a contiguous street.

*Structural alterations.* Any change, except those required by law or ordinance, which would prolong the life or change the shape or size of any portion of a building or structure or of the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders, not including openings in bearing walls as permitted by other ordinances.

*Structure.* Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing: signs, backstops for tennis courts, fences, screen enclosures, and pergolas.

*Subdivision.* Shall be interpreted as defined in the subdivision regulations of Dade County or, if not so defined, then a Subdivision shall be the division of land into two or more lots, or other division of land into parcels of five acres or less for the purpose, whether immediate or of transfer of ownership or building development.

*Swimming pool.* Any portable, pool or permanent structure containing a body of water 18 inches or more in depth and 250 square feet or more of water surface area located in a residential area that is intended for swimming or recreational bathing and containing 18 inches or more in depth, including but not limited to in-ground, aboveground, and on-ground swimming pools, hot tubs, and non-portable spas, but not including an ornamental reflecting pool or fish pond, unless it is located and designed so as to create a hazard or be used for swimming or wading.

*Tent.* A canvas or other cloth shelter from sun or weather supported by a wood or metal frame or by poles, stakes, and ropes, or both, and not attached to any building.

*Time-sharing condominiums.* Any structure, service, improvement, or real property, which is made available to purchasers of a time sharing plan.

*Trailer, utility.* A vehicle lacking a means of self-propulsion intended to be towed by another vehicle and designed to be used for the transport or hauling of chattel.

*Trash.* Cuttings from vegetation, refuse, paper, bottles, rags, bulk trash, discarded furniture, etc.

*US Green Building Council (USGBC).* A nonprofit organization with the vision that buildings and communities will regenerate and sustain the health and vitality of all life within a generation. The USGBC mission is to transform the way buildings and communities are designed, built and operated, enabling an environmentally and socially responsible, healthy, and prosperous environment that improves the quality of life. The USGBC has designed and administered various green building certification programs including the LEED Rating systems and administers the USGBC LEED professional accreditation program.

*Utilities.* Structures of public or municipal utility in excess of lines, piping, conduit, transformers, or other essential utilities. A substation, pumping station, storage yard, or similar installation. Normally a significant structure or combination of structures often enclosed within a building.

*Use.* Any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; any occupation, business, activity, or operation to be carried on or intended to be carried on in a building or other structure or on land; or a name of a building or other structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained, or occupied.

*Use, commercial.* Any use which is operated as or is accessory to a business.

*Use, residential.* A use, which accommodates persons, not institutional in character, such as a single-family dwelling or multifamily dwelling, including apartments and hotel or motel rooms.

*Use, resiliency.* A use that is the sole or principal use on a parcel and provide service beyond the individual parcel or building on a parcel and addresses carbon sequestration, water storage, biofuels, or renewable energy collection and distribution. This is to be distinguished from green building features specific to and serving an individual project/building such as electric vehicle charging stations, photovoltaic system, solar water heating system, green infrastructure or wind turbines that are accessory uses.

*Variance.* A dispensation permitted on individual parcels of property as a method of relieving an unnecessary hardship, by allowing a reasonable use of the building, structure, or property, which, because of unusual or unique circumstances, is denied by the provisions of this chapter.

*Vehicle, commercial.* Any vehicle designed, intended, or used for the transportation of people, goods, or things, other than private passenger vehicles and trailers for private non-profit transport of goods and/or boats.

*Village.* North Bay Village, Florida.

*Village Commission.* The Village Commission of North Bay Village, Florida.

*Village-owned civic or office construction project.* Village-owned buildings providing a public gathering place or office facilities.

*Wall.* A structure forming a physical barrier which is so constructed that less than 50 percent of the vertical surface is open to permit the transmission of light, air, and vision through such surface in a horizontal plane.

*Waterfront.* Any site shall be considered as waterfront premises provided any or all of its lot lines abut on or are contiguous to any body of water.

*Wind Turbine.* A machine, or windmill, that converts the energy in wind into mechanical energy. A wind generator then converts the mechanical energy to electricity. There are primarily two types of wind turbines: the horizontal axis wind turbine (HAWT), and the vertical axis turbine (VAWT).

*Wine.* Shall be as defined in Section 561.01(4), Florida Statutes.

*Yard.* An open area, other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

*Yard, front.* A yard across the full width of the lot extending from the nearest line of any main or accessory building to the front street right-of-way line of the lot.

*Yard, rear.* A yard across the full width of the lot extending from the nearest line of any main or accessory building to the rear line of the lot.

*Yard, side.* A yard extending from the front yard to the rear yard, between the side lot line and the nearest line of any main or accessory building.

## CHAPTER 8, ZONING

### DIVISION 1, ZONING DISTRICTS ESTABLISHED; ZONING MAP

#### § 8.1 – Title.

This chapter shall be known as the “Zoning Regulations for North Bay Village, Florida; 2017 Revision.”

#### § 8.2 – Purpose and intent.

The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, morals, health, order, conveniences, prosperity and general welfare of the citizens of the Village, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for preservation, protection, development and conservation of the natural resources of land, water and air, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion and the civic amenities of beauty and visual interest, for promotion of large-scale developments as a means of achieving unified civic design, and for development in accord with the Village’s adopted comprehensive plan, by establishing zoning districts and by regulating the location and use of buildings, signs and other structures, and land and water for trade and residence by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces, and the density of use. To accomplish this intent, the regulations and districts and have been designed with reasonable consideration, among other things, to the character of the districts and their suitability for particular uses.

#### § 8.3 – Establishment of zoning districts.

In order to regulate and restrict the location of commercial, public and semi-public uses, and residences, and the location of buildings erected or altered for specific uses, to regulate or limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the following zoning districts are hereby established:

##### A. *Single-Family Residential Districts.*

1. RS-1 Low Density Single-Family Residential District (See Section 8.10.A).
2. RS-2 Medium Density Single-Family Residential District (See Section 8.10.B)

##### B. *Multiple Family Residential Districts.*

1. RM-40 Medium Density Multiple Family Residential District (See Section 8.10.C).
2. RM-70 High Density Multiple Family Residential District (See Section 8.10.D).

##### C. *CG General Commercial District* (See Section 8.10.E).

##### D. *Bay View Overlay District* (See Section 8.10F)

##### E. *Government Use District* (See Section 8.10G)

#### **§ 8.4 – Reference to district names.**

For the purpose of reference hereafter in these regulations, unless specifically provided to the contrary, the term *Residential* shall include both single-family and multi-family districts.

#### **§ 8.5 – Identification of district maps.**

Such land and the zoning district classification thereof shall be shown on a map designated as the Zoning District Map of the Village, dated and certified by the Village upon adoption. This Zoning District Map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts, shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations. The map and any later alterations shall be available for public inspection in the offices of the Village Manager or his designee. These regulations shall be similarly dated, filed, and made available for public reference.

#### **§ 8.6 – Publication of district maps.**

- A. The Village Manager or his designee shall cause to be published, or prints made available, no later than March 31 of the year following adoption of these regulations, the Official Zoning District Map, clearly showing the zoning district boundaries and zoning district names and designations for the incorporated area of the Village. In each calendar year thereafter, if there have been any changes in the zoning district boundaries or in reorganization of districts and district classifications in the preceding year, such amended map shall be published no later than March 31, and shall reflect all changes as of December 31 of the preceding year.
- B. Any person desiring a copy of the Official Zoning District Map shall pay a fee for each copy, as set by ordinance.

#### **§ 8.7 – Interpretation of district boundaries**

- A. *Map symbols.* A district name or letter-number combination shown on the Zoning District Map indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole incorporated area of the Village, bounded by the district boundary lines within which the name or letter-number combination is shown or indicated, except as otherwise provided by this section.
- B. *Interpretation.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:
  - 1. In cases where a boundary line is given a position within a street, alley, or easement, it shall be deemed to be in the center of the right-of-way of the street, alley, or easement. If the actual location of the street, alley, or easement varies slightly from the location as shown on the Zoning District Map, then the actual location shall control.
  - 2. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

3. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where bounded approximately by lot lines, said lines shall be construed to be the boundary of such districts unless the boundaries are otherwise indicated on the map or by ordinance.
4. In unsubdivided property, unless otherwise indicated, the district boundary line shall be determined by the use of the scale contained on the Zoning District Map.
5. All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. District boundaries over water areas are located by noted or scaled dimensions, by relation to physical features, by coincidence with Village limit lines, or by a straight-line projection of the centerlines of streets as indicated on the Zoning District Map. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other, with Village limit lines or county limit lines.

#### **§ 8.8 – New land area.**

Any land hereafter created within or annexed to the corporate area of the Village shall take the classification of "RS-1" - Low Density Single-Family Residential. This shall include the extension of existing bulkhead lines or the creation of islands not contiguous to existing islands.

### **DIVISION 2, APPLICATION OF DISTRICT REGULATIONS**

#### **§ 8.9 – General regulations.**

##### *A. Compliance with regulations.*

1. No land or water area may be used except for a purpose permitted in the district in which it is located.
2. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.
4. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
5. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.
6. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area, floor area ratio, or open space ratio regulations of the district in which it is located.

##### *B. Encroachment reduction of lot area.*

The minimum yards, parking space, and open spaces, including lot area per family, required by these regulations for each and every building existing at the time of the passage of these regulations or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations.

- C. *Accessory buildings; prior construction.* No accessory building, structure, or dock shall be constructed upon a lot until the construction of the main use building has actually commenced. No accessory building shall be used unless the main use building on the lot is also being used.
  
- D. *Location on a lot required.* Every building or structure hereafter erected, moved, or structurally altered shall be located on a lot as herein defined, and except as hereinafter provided, in no case shall there be more than one principal building on one lot.

**§ 8.10 – District regulations.**

A. *RS-1 Low Density Single-Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for low-density single-family residential development in a spacious setting, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. *Use exceptions as may be approved under Section 8.11*

4. Prohibited uses.

- a. All other uses not specifically or provisionally permitted herein.

5. *Site development standards.*

a. Minimum lot size:

Area—7,000 square feet

Frontage—70 feet

b. Minimum yard setbacks:

<b>Setback</b>	<b>Distance (Feet)</b>
Front	20
Side (corner)	20
Side (interior)	10
Rear	15
Waterfront	25

The foregoing is applicable except for Lots 1 through 7 of Block 1 and 1 through 4 of Block 2, respectively, of the subdivision known as North Bay Island, which shall have a minimum waterfront setback of 20 feet.

c. Maximum building height:

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—2,000 square feet

Two story—2,600 square feet

B. *RS-2 Medium Density Single-Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for medium-density single-family residential development in a relatively spacious setting, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. *Use exceptions as may be approved under Section 8.11*

4. Prohibited uses.

a. All other uses not specifically or provisionally permitted herein.

5. *Site development standards.*

a. Minimum lot size:

Area—6,000 square feet

Frontage—60 feet

b. Minimum yard setbacks:

<b>Setback</b>	<b>Distance (Feet)</b>
Front	20
Side (corner)	15
Side (interior)	7½
Rear	15
Waterfront	25

c. Maximum building height:

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—1,500 square feet

Two story—2,000 square feet

C. *RM-40 Medium Density Multiple Family Residential District.*

1. Purpose and intent.

The purpose of this District is to provide for medium density multi-family residential development, together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible. This district is intended to be utilized as a transitional buffer between single-family residences and high density apartments or commercial uses.

2. Uses permitted.

- a. Multi-family residential dwellings.
- b. Management offices within structures containing eight or more dwelling units.
- c. Duly licensed home occupation.

3. Prohibited uses.

- a. All other uses not specifically or provisionally permitted herein.

4. Site development standards.

a. Minimum lot size.

Area—10,000 square feet

Frontage—100 feet

b. Minimum yard setbacks.

<b>Setback</b>	<b>Distance (Feet)</b>
Front	25
Side (corner)	25
Side (interior)	20
Rear	15
Waterfront	25
Adjacent single family structure	100

c. Maximum density.

Forty (40) efficiency or one-bedroom dwelling units per net acre. The following required amount of lot area per unit shall determine the number of other dwelling unit types permitted.

<b>Unit Type</b>	<b>Required Lot Area (Sq Ft / Unit)</b>	<b>Density (Units/Acre)</b>
Efficiency	1,085	40.1

One-bedroom	1,085	40.1
Two-bedroom	1,200	36.3
Three-bedroom or larger	1,320	33.0

- d. Maximum building height.  
45 feet or four (4) stories, whichever is less
- e. Exclusion of grade level parking from height limitation.
  - (1) A grade level of parking, not exceeding ten (10) feet in height, shall not be included in this height limitation.
  - (2) The grade level parking floor may include other nonresidential uses, including laundry rooms, recreational rooms, storage rooms, and an office for building management.
- f. Minimum pervious area: 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.
- g. Minimum floor area.

Unit Type	Floor Area (Sq. Ft.)
Efficiency	400
One-bedroom	750
Two-bedroom	1,000
Three-bedroom or larger	1,150

- 5. Single-family homes approved under the provisions of Section 8.11 consistent with the setback provisions of the RS-1 (Low Density Single-Family Residential District).
- 6. Use exceptions as may be approved under Section 8.11.

**D. RM-70 High Density Multiple Family Residential District.**

- 1. Purpose and intent.  
The purpose of this district is to provide for high-density multi-family residential structures together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.
- 2. Use permitted.
  - a. Multi-family residential dwellings including duly licensed home occupation.
  - b. Management offices within structures containing eight (8) or more dwellings units or guest rooms.
  - c. Office retail and service commercial facilities of an ancillary nature within structures containing 100 or more dwelling units or guest rooms subject to the following conditions:
    - (1) Access to such nonresidential facilities shall be only inside the building.
    - (2) There shall be no external advertising signs, display windows or entrances,

provided, however, that

(3) Within a building containing 400 or more dwelling units, entrances, external signs and display windows are permitted under the following conditions:

- (a) The signs do not abut or face a public right-of-way and cannot be read from the public right-of-way;
- (b) Such external signs shall be affixed flat against the facade or awning canopy of the commercial facility;
- (c) Such external signs shall not exceed in area ten percent of the area of the facade of the facility;
- (d) Such external signs shall be compatible as to materials, background and style with all adjacent and contiguous commercial facilities, and
- (e) Such external signs shall not be self-illuminated, "activated", "animated", "flashing", or "beacon light" signs as defined in Section 11.2 of the ULDC.

3. Prohibited uses.

- a. All other uses not specifically or provisionally permitted herein.

4. Site development standards.

a. Minimum lot size.

Area—27,000 square feet;

Frontage—75 feet

b. Minimum yard setbacks.

<b>Location</b>	<b>Distance (Feet)</b>
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Adjacent single-family district	100
One side (interior)	15
Second side (interior)	20% of the lot width
Total side setback area free of structures at ground level	60

c. Maximum base density.

Seventy (70) efficiency or one (1) bedroom dwelling units per net acre. The following required amount of lot area per unit shall determine the number of other dwelling unit types permitted.

<b>Unit Type</b>	<b>Required Lot Area (Sq. Ft./Unit)</b>	<b>Density (Units/Acre)</b>
Efficiency	623	70.0

One-bedroom	623	70.0
Two-bedroom	685	63.6
Three-bedroom or larger	750	58.1

- d. Maximum bonus density: Bonus density may be approved according to the Transfer of Density Rights program in Section 8.13.
- e. Maximum base building height: 150 feet.
- f. Maximum bonus building height: Bonus height may be approved according to Section 8.12.
- g. Minimum pervious area: Twenty percent (20%) of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.
- h. Minimum floor area:

Unit Type	Floor area (Sq. Ft.)
Efficiency	600
One-bedroom	900
Two-bedroom	1,200
Three-bedroom or larger	1,350

5. Additional required features and requirements.

All properties developed under the RM-70 Zoning requirements shall provide the following:

- a. Public access boardwalk as required by the Miami-Dade County Shoreline Review Committee. (Developer shall dedicate an easement to the Village conveying the boardwalk and a public access corridor).
- b. All exterior paving surfaces, except for covered parking garages, shall be constructed of brick pavers.
- c. A water feature shall be provided in the front of each development.
- d. Developments shall comply with existing landscaping requirements, as well as changes implemented in the future to conform to contiguous developments and landscaping plans implemented for the causeway and interior island areas.
- e. Developments shall provide streetscape benches along the boardwalk areas.
- f. All parking garages shall be constructed with architectural features that hide them from public view (glass, screening, greenery etc.).
- g. Lighting shall be provided in all areas in the front of development where trees are planted.

6. Special exceptions for certain undersized parcels.

- a. Purpose and intent.

This section recognizes that certain parcels exist in the RM-70 District which do not meet the minimum lot size requirements set forth in Section 8.10.D.4.a. to permit a building to be erected, converted, enlarged, reconstructed, moved or structurally altered. Some of said parcels are improved and some unimproved. The purpose of this section is to establish criteria whereby undersized parcels may be put to reasonable use, consistent with the Village's Comprehensive Plan for development and in furtherance of a policy which discourages overdevelopment and urban congestion.

b. Uses permitted.

Uses permitted shall be the same as permitted in Section 8.10.D.2

c. Site development standards:

(1) Minimum lot size:

Area —10,800 square feet

Frontage—30 feet

(2) Minimum yard setbacks shall be the same as specified in Section 8.10.D.4.b provided that existing buildings, which were completed prior to April 1, 1983, (existing structures) and were lawfully constructed so that any existing setback encroaches into the setback area prescribed by current law but not in excess of 33 1/3 percent of the current setback requirements (nonconforming setback) shall be subject to the provisions of subsection (c.(4) hereafter.

(3) Maximum density shall be as prescribed in Section 8.10.D.4.c except that

(a) on minimum undersized parcels of 10,800 square feet in area and frontage of 30 feet, there shall be a maximum of six (6) residential units;

(b) in the case of undersized parcels which exceed the minimum required lot area of 10,800 square feet and the minimum required frontage of 30 feet, in addition to six (6) units there shall be allowed one (1) unit for each whole 750 square feet of land area in excess of the minimum required lot area of 10,800 square feet

(4) Maximum building height on undersized parcels.

(a) The maximum building height on minimum undersized parcels shall be three (3) stories or 36 feet above code-approved grade, whichever is less.

Except-, in the event an existing structure is the subject of a nonconforming setback, the new covered or roofed area of the third floor (if there is one) shall be reduced in area on the basis of one and five-tenths percent (1.5%) of the area of the second floor for each foot of nonconforming encroachment into the setback area.

(b) The maximum building height on undersized parcels which exceed the minimum required lot area of 10,800 square feet and minimum frontage of 30 feet shall be one (1) floor for each whole 1,750 square feet of land area in excess of the minimum required lot area of 10,800 square feet, not to exceed six (6) stories or 72 feet above code approved grade, whichever is less.

(c) Provided further, as to buildings newly constructed under the provisions of this ULDC, grade level beneath the building parking not exceeding ten (10) feet in height shall not be included in the height limitation herein imposed.

- (5) Minimum pervious area: 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.
- (6) Minimum floor area shall be as prescribed in Section 8.10.D.4.5
- (7) Offstreet parking: The offstreet parking requirements as set forth in Sections 9.1 through 9.3 shall apply to buildings under this section except that every dwelling unit, regardless of size, shall require two (2) parking spaces.
- (8) All Village and County landscaping requirements shall be fully applicable to buildings under this section.

7. Planned Residential Development (PRD) Zoning Overlay.

a. Purpose and intent.

The purpose and intent of the Planned Residential Development (PRD) Overlay Zoning District to create a living environment that is responsive to the needs of its residents; to provide flexibility in planning, design, and development consistent with the Village's Comprehensive Plan; to encourage innovative approaches for the design of community environments; to provide for an efficient use of land, to provide an environment compatible with surrounding land use; to adapt the zoning process to changes in development and construction technology; to encourage infill and the redevelopment of the Village's multi-family areas; and to promote the public health, safety and general welfare of North Bay Village. The PRD shall be deemed an Overlay Zoning District and shall be approved only after public hearings for a specific site.

b. Compatibility with existing zoning and existing development.

When applying the terms and conditions imposed by this section, the Planning and Zoning Board and the Village Commission shall determine compatibility with already existing zoning for the property subject to the application and shall require applicants for PRD approval to demonstrate compatibility with already existing or approved developments adjacent to the property for which the PRD approval is being sought.

c. Ownership requirements.

The applicant for approval of a PRD shall be either the owner(s) or the contract purchaser or lessee of the entire property encompassed by the PRD application. If the applicant is the contract purchaser or a lessee, then the owner of the entire property shall execute a notarized consent to the filing of the application. The application for approval of a PRD shall not be assignable or transferable to other parties.

d. Development parameters.

All applications for PRD shall comply with the following applicable development parameters:

- (1) The subject property shall be zoned for RM-70 multi-family use;
- (2) The subject property shall contain a minimum of one legally platted lot for the construction of no less than ten (10) residential units and twenty (20) off-street parking spaces, or two (2), but not more than three (3), platted lots contiguous, as of the effective date of this section [Jan. 22, 2002];

- (3) The subject property shall be deemed one (1) parcel of land and in the event that two (2) or more platted lots shall constitute a PRD, the applicant shall submit a Unity of Title in a form acceptable to the Village Attorney;
- (4) The following definitions shall apply to this section:
- (a) *Floor area ratio (FAR)*. Total gross area of a building or buildings, excluding parking garage structure, on any lot divided by the area of the lots.
  - (b) *Gross floor area*. Total area of all floors of a building that are enclosed including common areas such as elevators (area of shafts at ground floor only), stairs (except open stairways and enclosed stairways which are means of egress required by the fire department), corridors, interior recreation areas, storage, cabana, lobby, restrooms, etc. All these items are excluded: The garage structure with any required means of egress, and any open but covered walkways, exterior balconies, open decks, and terraces at the recreational area.
  - (c) *Pedestal*. Portion of a building that contains the parking level entry lobby, office, manager's unit, storage, mechanical room, recreational facilities, and parking structures.
  - (d) *Tower*. Portion of the building that contains residential units, parking structures, and may also include recreational facilities.
- (5) *Restrictions on floor area*.
- (a) No structure shall contain a FAR of greater than 3.0 for one lot; 3.75 for two lots; and 4.00 for three lots.
  - (b) No more than one-half of a floor area used for amenities can be allocated for dwelling units.
- e. Permitted uses. Multifamily residential and recreational facilities ancillary thereto.
- f. Site development standards.
- (1) Standard Building Setbacks.
- (a) Setbacks for a new building without pedestal and tower design shall be as set forth in the following table:

<b>Location</b>	<b>Distance (Feet)</b>
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Adjacent single-family district	100
One side (interior)	15
Second side (interior)	20% of the lot width
Total side setback area free of structures at ground level	60

(b) For buildings with pedestal and tower design, the following setbacks shall apply:

- i. Front pedestal—20 feet
- ii. Front tower—25 feet
- iii. Rear pedestal/tower—25 feet
- iv. Sides pedestal—Ten feet
  - Tower—One side—15 feet
  - Tower—Other side—20 percent of frontage

(2) *Flex setback.*

Designer has the option to offer creative design solutions to the building configurations and the Village will allow the tower (and pedestal for sites involving only one lot) to encroach into the setbacks as per the following "flex box" criteria.

- a. The aggregate square footage of the floor area encroaching into the setback must be adjusted by deducting it from the buildable "box" allowed under the preceding standard setback regulations
- b. Up to 25 percent (25%) of the square footage of all balconies shown on the plan as encroaching into the setback may be excluded from the calculation of the total square footage of the encroachment.
- c. In no instance is the designer allowed to build more area per floor than what is permitted under the standard buildable "box".
- d. In no instance may any wall length, which encroaches into any side yard setback, be longer than one-third of the length of a wall which is permitted under the buildable "box" and the standard setback regulations. Balconies with railings or other physical containment, which do not exceed 42 inches in height are not included in the measurement of the wall length.
- e. The length of wall measurement shall be made at the point of maximum encroachment into the flex setback area.

(3) *Building height.*

- (a) No structure shall exceed 170 feet in overall height above base flood elevation (BFE) including all structures for stairways, storage, mechanical, elevator, recreational uses, et cetera.
  - i. The total area of stairways, storage, mechanical, elevator, recreational uses, et cetera shall not exceed 30 percent of the footprint of the last residential floor.
- (b) No structure shall exceed 150 feet from base flood elevation to the roof of the last residential floor and 160 feet for the overall height of the structure except that an elevator shaft may exceed 160 feet in height based on evidence of necessity as a result of requirements for elevator construction.
- (c) No Pedestal shall exceed 30 feet in height from grade.

(4) *Off-street parking for multiple lot sites.*

- (a) Off-street parking shall be required as set forth for residential uses under Section 9.3.C.
  - (b) All parking spaces must be screened from ground level view.
  - (c) All parking spaces must be designed to meet the requirements of Section 9.3.E.
  - (d) The driveway required in 90-degree parking shall be a minimum of 22 feet zero inches wide.
- (5) Off-street parking for single lot sites only
- (a) Driveways and maneuvering areas shall be designed in order to ensure safe travel in and out of the garage structure. Drives and access ramps are permitted to be smaller than twenty-two (22) feet in width if they are either limited to one-way traffic or designed so that gates or other barriers prevent the entry of more than one vehicle at a time. No drive aisle may be less than 10.5 feet in width.
  - (b) Notwithstanding the above or the requirements of Section 9.3(E), mechanical parking lifts may be permitted in an enclosed garage structure if approved by the Village Commission through the PRD site plan review process, during which time, the Village Commission shall have the right to determine whether a valet parking program will be required for any new development utilizing mechanical parking lifts. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Both parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. A mechanical parking structure may be permitted if it meets the following standards:
    - i. The mechanical parking lifts and the garage structure shall be designed so that the noise or vibration from the operation of the lifts shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls decrease sound and vibration emissions.
    - ii. All mechanical parking lifts must be installed by the manufacturer or a manufacturer approved installer.
    - iii. All lifts must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once every six months. A copy of the inspection report must be provided to the Village.
    - iv. All free-standing mechanical parking lifts must be designed so that power is required to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.
    - v. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked below the lift.
    - vi. All mechanical lift components shall be Underwriters Laboratories (UL) approved.

- vii. All non-mechanical parking spaces in the garage structure must measure at least nine (9) feet in width by eighteen (18) feet in depth.
- viii. The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of lifts. Proof of the service contract must be provided to the Village annually.
- ix. The ceiling height of any parking level with parking lifts within a garage shall be a minimum of 11 feet 6 inches.
- x. The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.

(6) *Entrance feature/porte cochere.*

- (a) A covered/sheltered entrance feature with a vertical clearance of at least fourteen (14) feet shall be permitted to be located up to the front property line.
- (b) If loading spaces are provided at this location, 14½ feet of vertical clearance shall be provided.
- (c) Columns may be provided to support a porte cochere.

(7) *Balconies.*

- (a) Exterior balconies/terraces and covered walkways, excluding rooftops and other non-covered areas, may extend into setbacks a maximum of 25 percent of the allowable setback measurement but may not extend beyond the pedestal setback.
- (b) Balconies projecting into setbacks shall be deemed as encroachments herein, but shall not be calculated as part of the floor area ratio.
- (c) Notwithstanding anything herein to the contrary, in no event shall the total square footage of balconies exceed more than 25 percent of the total square footage of the buildable box.

(8) *Landscape requirements.* (Refer also to Ch. 18, Miami-Dade Landscape Code.)

- (a) A minimum of 30 percent of the exposed roof deck of the pedestal and any open areas with amenities shall be landscaped,
- (b) In addition "hardscape" (pavers, fountains, awnings, etc.) may be permitted if approved by the Village.
- (c) An applicant shall be required to submit a detailed landscape plan to the Village. The landscape plan shall be sensitive to surrounding properties and shall be utilized to enhance the subject property.

(9) *Minimum Unit size.* All units shall comply with the minimum size requirements as follows:

<b>Unit Type</b>	<b>Floor Area (Sq. Ft.)</b>
Efficiency	600
One-bedroom	900
Two-bedroom	1,200

Three-bedroom or larger	1,350
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- g. Application procedure. The applicant shall submit an application to the Village Manager, or his/her designee, on a form(s) prescribed by the Village Manager. The Village Manager shall require at least the following information which shall be considered the PRD application:
  - (1) Letter of intent;
  - (2) Payment of \$5,000.00 development review application fee for each application submitted. Fees incurred by the Village for special planning and/or legal consultant services during the development plan approval process shall be reimbursed to the Village by the applicant;
  - (3) A detailed site plan showing dimensions of building(s), structure(s), setback(s), open space(s), landscaping and off-street parking. The landscaping plan shall provide buffering and/or masking of all parking facilities;
  - (4) Proposed floor plans and elevations (including signage) for all buildings and structures encompassing the size, placement and number of units;
  - (5) A complete list of uses and the square footage for each use;
  - (6) A certified copy of a land survey;
  - (7) Detailed calculations of water consumption increase and calculation of wastewater;
  - (8) Any other documentation as the Village Manager, or his/her designee, reasonably determines is necessary to properly review the proposed project; and
  - (9) Within ten days prior to the Planning and Zoning Board public hearing, the applicant shall furnish to the Village Manager, or his/her designee to make available for viewing
    - (a) an architectural model built to scale and photographs depicting same or a
    - (b) digital model on DVD depicting the proposed lot and structure including elevations all in relation to adjoining properties and structures thereon.
    - (c) Said model shall be retrieved by the developer within thirty (30) calendar days following the final public hearing before the Village Commission, and the DVD and photographs depicting the model shall become a part of the public records.
    - (d) Said model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that all setbacks for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.
  
- h. Public hearing procedure. At a public hearing, the applicant shall have the burden of proof in demonstrating that the PRD application complies with the purpose and intent of the PRD ordinance. In determining whether to grant approval of the PRD application, with or without appropriate and necessary conditions and safeguards, the Planning and Zoning Board and Village Commission shall determine whether the application complies with the purpose and intent of this section and shall make the following findings:

- (1) Whether the application is consistent with the Village's Comprehensive Plan.
  - (2) Whether the proposed development will have a favorable effect on the economy of the Village.
  - (3) Whether the proposed development application will generate or result in excessive noise or traffic.
  - (4) Whether the proposed development will cause an undue or excessive burden on public facilities and services, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities, which have been constructed, or which are planned or budgeted for construction.
  - (5) Whether the proposed development will tend to create a fire hazard or other dangerous conditions.
  - (6) Whether the proposed development will cause excessive overcrowding or concentration of people or population that would create evacuation concerns.
  - (7) Whether the proposed development will be compatible with the surrounding area and its development, and will demonstrate innovative design in order to minimize impact on surrounding properties.
  - (8) Whether the proposed development is a reasonable use of the property and results in a public benefit including, but not limited to, the enhancement of the subject real property and/or the redevelopment of structures in deteriorated or poor condition.
- i. Legal effect of PRD.
- (1) Notwithstanding anything in the Code to the contrary, the approval of a PRD application shall be deemed an Overlay Zoning District to the existing zoning of the property.
  - (2) The approved PRD application shall encompass the approved development and the development regulations applicable to the property, and shall not be subject to any variances as may be required by other sections of this Code.
  - (3) However, the Village Commission shall be prohibited from approving a PRD application that would increase the intensity, density or height above that which is permitted in these PRD regulations.
  - (4) In the event that the owner wishes to modify an approved PRD application in any fashion which would increase the amount of square footage of the building(s) or lessen landscaping or open space, or create an undue burden on any public facilities, a new PRD application shall be filed and shall be subject to the terms and conditions of this section.
  - (5) In the further event that the owner shall not begin development pursuant to the approved PRD application for a period exceeding 12 months, the PRD designation shall lapse and the Overlay Zoning District for the subject property shall terminate.
  - (6) The Village Commission shall have full authority to approve, approve with modifications, or deny a PRD application based upon its legislative determination that the application, as proposed or modified, serves and protects or does not serve and protect the public health, safety and welfare to at least an equivalent degree as the underlying zoning. Likewise, the Village Commission shall have

authority to impose reasonable conditions and safeguards necessary to protect the public health, safety and welfare upon the approval of any PRD application.

- (7) Nothing contained in this section shall supersede or abrogate the express provisions of the Village's Comprehensive Plan, and all development orders issued by the Village shall not exceed the density limitations imposed by the Village's Comprehensive Plan. It shall be the duty of the Village Manager, or his/her designee, to advise the Village Commission whether any individual application will cause the density to exceed any density restrictions imposed by the Village's Comprehensive Plan.

#### E. *CG General Commercial District*

1. *Purpose and intent.* The purpose of this district is to encourage the development of general office, retail, service commercial, tourist accommodations, and commercial-residential mixed use.
2. *Uses permitted:*
  - a. Bank or financial institution.
  - b. Clinic, urgent care, or hospital.
  - c. Dry cleaning substation or laundromat.
  - d. Lounge or nightclub (subject to the provisions of Chapter 111 of the Village Code).
  - e. Medical or dental office/laboratory.
  - f. Personal services establishments, including but not limited to shoe repair, barber and beauty shop, stock brokerage, employment agency, travel bureau, and messenger service.
  - g. Post office.
  - h. Professional offices, including but not limited to architecture, accounting, engineering, investigative, investment and tax counseling law, medicine, and real estate.
  - i. Multi-family residential dwellings, in conjunction with ground floor commercial.
  - j. Tourist accommodations including hotels, motels, vacation rentals, and time sharing units.
  - k. Restaurants, coffee shops, delicatessens and fast order food establishments (excluding any form of drive-in or drive-thru service regardless of the type of establishment; see subsection E.3.a).
  - l. Outdoor seating/dining shall be subject to the following requirements and conditions:
    - (1) An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include layout of all tables, chairs, benches, and other furniture; pedestrian ingress and egress; location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/ dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).
    - (2) Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions,

modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager. Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.

- (3) The fee for outdoor dining/seating use and area will be charged annually in the amount of \$250.00; the permit fee shall be added to the occupational license fee for the main business.
- (4) The applicant shall provide an indemnity agreement that is acceptable to the Village Manager. This agreement will include specification of liability insurance provided.
- (5) The conditional use permitting of outdoor seating/dining use and area may be revoked by the Village Manager or his/her designee, upon finding that one or more conditions of these regulations have been violated, or that the outdoor seating/dining area and use are being operated in a manner that constitutes a public nuisance, or in any way that constitutes a reasonable risk of potential liability to the Village.
- (6) Outdoor seating/dining use and area may be temporarily suspended by the Village for public use/purpose, utility, sidewalk or road repairs, emergency situations, or violations of provisions contained herein. The length of suspension shall be determined by the Village Manager as necessary. Removal of all street furniture and related obstructions shall be the responsibility of the owner/operator of the outdoor seating/dining.
- (7) Outdoor seating/dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating/dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the outdoor seating/dining area. Use of Village sidewalks for trash and garbage removal shall be prohibited.
- (8) Outdoor seating/dining use and area shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities, or access to any other commercial establishments. The width and location of the sidewalk pedestrian passage shall be as follows:

If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;
- (9) Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.
- (10) Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.

- (11) Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment
  - (12) Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.
  - (13) Carts and trays for serving food are permitted in the outdoor seating/dining area.
  - (14) Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.
  - (15) Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided no entertainment of any kind is furnished. No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.
  - (16) Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.
  - (17) The hours of operation shall coincide with that of the primary restaurant.
- m. Retail sales establishments, including but not limited to the sale of appliances, books, stationery, drugs, hardware, liquor, groceries, meats, produce and fish; however, such retail sales shall be restricted to merchandise stored and displayed within the main structure.
  - n. Radio and television transmitting station and studio.
  - o. Studios for artists, photographers, sculptors, or musicians, including: the teaching of art, music, dancing, or artistic instruction.
  - p. Daycare or nursery
  - q. Repair service establishments (shoes, watches, appliances, and other similar uses)
  - r. Gym or fitness center
  - s. Commercial parking lot
  - t. Business, vocational, and trade schools
  - u. Pharmacy
  - v. Animal hospital, grooming, and/or kennel
  - w. Funeral home or mortuary
  - x. Art gallery
  - y. Religious institution
  - z. Lodges, fraternal organizations, and union halls
3. *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions (See Section 8.11).
    - a. Drive-thru or drive-in service.
    - b. Marinas, provided that the following provisions are adhered to:
      - (1) No docks or piers, including mooring piles, catwalks, and other appurtenances,

shall be constructed closer than 7.5 feet to any adjacent property line.

- (2) In no case shall a dock or pier project more than ten percent into the width of any waterway.
  - (3) Fire prevention and fire control equipment shall be provided as required by the South Florida Building Code.
  - (4) In conjunction with the dockage of moorage of vessels, the following water-related activities, vessels and structures are prohibited:
    - (a) Commercial vessels.
    - (b) Haul-out facilities for major boat repair or overhaul work.
    - (c) Unscreened storage of boating supplies or accessories in the required front yard setback area.
    - (d) Permanent live-aboard vessels except as required for work or security purposes.
- c. Printing and publishing establishments, including blueprinting and photostating, provided that no such use shall occupy more than 1,500 square feet of gross floor area.
- d. Service stations, provided that the following provisions are adhered to:
- (1) All structures shall be designed in a manner that is compatible with the overall environmental and architectural design goals of the community.
  - (2) All properties shall have at least 150 feet of frontage.
  - (3) All new and used merchandise shall be stored and displayed within the main structure except tires, accessories, and lubrication items, which may be maintained in movable or enclosed cabinets.
  - (4) No used or discarded automotive parts or equipment or permanently disabled or wrecked vehicles shall be located outside the main structure except within an enclosed trash storage area.
  - (5) Major repairs or engine overhauling or transmission repair, painting, body and fender repair, and tire recapping is not permitted.
  - (6) The rental of heavy equipment and the sale or rental of merchandise not related to the motoring public, other than as specified herein, is excluded.
  - (7) The storage of up to ten rental trailers or automobiles is permitted, provided that the trailers or automobiles are backed up against a six-foot high wall, and located not less than 20 feet from any sidewalk, street, or driveway.
  - (8) Car washes are permitted as an ancillary use subject to being located 200 feet from residential uses and subject to hours of operation.
  - (9) Trash shall be stored in areas shielded from public view. Storage trash containers shall be enclosed and covered.
  - (10) Any lights provided to illuminate or advertise the service station, shall be installed and maintained in a manner so as not to create an undue glare on adjacent properties.

- (11) Structures shall not occupy more than 30 percent of the total lot area.
  - (12) Driveways shall be permitted at the intersections of primary and secondary arterials, provided the construction of driveway entrances is within the curb return, but shall be at least five feet beyond the end of the curb return. At all intersections, whenever possible, combine driveways servicing both service station and adjacent uses, shall be designated and provided.
  - (13) Planter areas and tree wells shall be constructed and equipped with irrigation and drainage facilities and landscaped prior to final building inspection.
  - (14) Whenever the use abuts a residential district, a wall shall be erected along the property line eight feet in height.
  - (15) Service stations shall not be permitted within 300 feet of the property line of any church, synagogue, hospital, and school.
  - (16) No more than four service stations shall be permitted within the Village at any one time.
- e. Theaters for the showing of motion pictures shall provide no less than 400 fixed seats. When the theater is to be used solely for activities of a performing art, or an event of a cultural or civic nature, a lesser number of seats may be required by the Commission.
  - f. Yacht clubs, provided they have a minimum of 150 feet of water frontage and no main building is less than 4,000 square feet in gross floor area.
  - g. Public Storage, in conjunction with another use which is listed as a permitted use in the General Commercial zoning district. The public storage use may occupy no more than 35% of the floor area of the development. Additionally, no special use approval for a public storage use shall be granted within 2,500 feet from an existing public storage facility. This distance shall be measured as the airline distance between the nearest property lines of the proposed public storage location and the existing public storage location.
4. *Prohibited uses.* Boat storage facilities utilized for the purpose of storing boats shall be prohibited in the CG (General Commercial) District.
5. *Site development standards.*
- a. Minimum lot size:
    - Area—10,000 sf
    - Frontage—75 feet
  - b. Minimum yard setbacks:

<b>Location</b>	<b>Distance (Feet)</b>
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25

One Side (interior)	15
Second Side (interior)	20% of the lot width

- c. Maximum base building height: 150 feet.
- d. Maximum bonus building height: Bonus height may be approved according to Section 8.12.
- e. Maximum FAR: The maximum floor area ratio for all non-residential uses is 3.0. Areas used for parking shall not be counted towards maximum FAR. Hotels and motels are considered commercial uses.
- f. Maximum base density: Seventy (70) efficiency or one (1) bedroom dwelling units per net acre. The following required amount of lot area per unit shall determine the number of other dwelling unit types permitted:

Unit Type	Required Lot Area (Sq. Ft./Unit)	Density (Units/Acre)
Efficiency	623	70.0
One-bedroom	623	70.0
Two-bedroom	685	63.6
Three-bedroom or larger	750	58.1

- g. Maximum bonus density: Bonus density may be approved according to the Transfer of Density Rights program in Section 8.13.
- h. Minimum pervious area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.
- i. Landscaping: Shall be provided according to Miami-Dade Landscaping Chapter 18A.
- j. Minimum unit floor area:

Unit Type	Floor area (Sq. Ft.)
Hotel or Motel	200
Efficiency	600
One-bedroom	900
Two-bedroom	1,200
Three-bedroom or larger	1,350

F. Bay View Overlay (BVO) District.

1. General requirements.

- a. Purpose and intent. The BVO District is intended to encourage taller, narrower, mixed use buildings on commercial lots on the north side of Kennedy Causeway where such lots front directly on, and provide unimpeded views north to Biscayne

Bay. As such, this district provides the opportunity for development and redevelopment of mixed use residential buildings at greater heights than are otherwise permitted in the CG Zoning District if certain requirements are met. In order to provide incentives for re-development and streamline the development approval process, the BVO District has been pre-designated on the official zoning map. Application of the development incentives available in the BVO District to individual properties will be reviewed and approved by the Planning and Zoning Board and Village Commission concurrently with the site plan approval process.

b. Applicability.

- (1) The BVO District provides for an optional set of development regulations that may be voluntarily employed in the mixed use development of lands located within geographic limits of the BVO District shown on the official zoning map.
- (2) All regulations of the underlying zoning district that are not otherwise addressed in these regulations shall apply. Where the underlying zoning district and the BVO District both apply, the BVO District shall govern.
- (3) If a property owner should elect not to develop under these optional regulations, only the regulations of the underlying zoning district shall apply.

c. Procedure.

- (1) BVO standards review. Applications to use the development standards provided in the BVO District shall be processed concurrently with all other required development applications. At a minimum, the following applications are necessary and shall be considered in the following order:
  - (a) Building height bonus review to 240 feet pursuant to Section 8.12;
  - (b) Bay View Overlay District standards review; and
  - (c) Site plan review required.
- (2) Approval. Applications require approval by the Village Commission following a single public hearing and a recommendation from the Planning and Zoning Board. In order to approve an application, the Village Commission shall find that the development proposed:
  - (a) Is compatible with surrounding intensities and densities of development;
  - (b) Provides access to adequate light and air for surrounding properties; and
  - (c) Preserves views of, and view corridors to, Biscayne Bay consistent with the Village's 2007 Master Charrette Plan.
2. Allowable uses. All uses listed as permitted or special exception uses in the underlying zoning district shall be permitted equally in the BVO District, and such use shall be subject to all conditions, requirements or limitations applicable to the use in the underlying zoning district, except as may otherwise be set forth in this section.
3. Additional Building height. Front Setback Bonus: A building height of up to a maximum of 300 feet may be proposed under the following conditions:
  - a. Lots over 500 feet in depth. For parcels where the lot depth is more than 500 feet,

the following conditions shall apply:

- (1) The property is approved for a building height of 240 feet under the building height bonus provisions of Section 8.12.
  - (2) The portion of any building that is more than 240 feet in height must be set back from the front property line by a distance that is not less than half the height of said portion of the building, with a maximum required front setback of 340 feet.
- b. Lots under 500 feet in depth. For parcels where the lot depth is less than 500 feet, the following conditions shall apply:
- (1) The property is approved for a building height of 240 feet under the building height bonus provisions of Section 8.12.
  - (2) The entire portion of a building that is more than 240 feet in height must be set back from the front property line by a distance that is at least 60 feet.
- c. Fees for Front Setback Bonus.
- (1) Bayview Overlay bonus height community contribution fees shall be paid to North Bay Village within 90 days of site plan approval by the Village Commission.
  - (2) The community contribution fee shall be:
    - (a) \$750 per residential dwelling unit in the building, and
    - (b) \$500 per hotel/motel sleeping unit in the building, and
    - (c) \$10 per square foot of commercial/office floor area for any commercial/office floor area that exceeds 240 feet in height, excluding uncovered steps and exterior balconies
  - (3) Community contribution fees collected according to the Bayview Overlay bonus height program shall be utilized for the purchase of future Village parks, land for additional public open space, other public amenities, or infrastructure projects.
4. Additional Building height - Side Setback Bonus: A building height of up to a maximum of 400 feet may be proposed under the following conditions:
- a. Lots over 500 feet in depth. For parcels where the lot depth is more than 500 feet, the following conditions shall apply:
- (1) The property is approved for a building height of 300 feet under the building height bonus provisions of Section 8.12 and the Bayview Overlay Front Setback Bonus.
  - (2) If any portion of a building on the site exceeds 300 feet in height, no part of any building on the site may be closer to either side property line than a distance equal to 20 percent of the width of the lot.
- b. Lots under 500 feet in depth. For parcels where the lot depth is less than 500 feet, the following conditions shall apply:
- (1) The property is approved for a building height of 300 feet under the building height bonus provisions of Section 8.12 and the Bayview Overlay Front Setback Bonus.
  - (2) If any portion of a building on the site exceeds 300 feet in height, no part of any building on the site may be closer to either side property line than a distance equal to 30 percent of the width of the lot.

G. Government Use District

1. *Purpose and intent.* The Government Use Zoning District is intended for federal, state and local government activities, transportation facilities, public facilities and utilities and other similar facilities owned or operated by government that generally serve and benefit the community.
2. Uses permitted:
  - a. Government owned facilities
  - b. Government operated facilities
3. *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions.
4. Site development standards
  - a. Minimum lot size
    - (1) Area: no minimum lot size
    - (2) Frontage: no minimum frontage
  - b. Minimum yard setbacks
    - (1) Kennedy Causeway: 20 feet
    - (2) Other street frontages: 10 feet
    - (3) Rear: 10 feet
    - (4) Abutting commercial zoning district: 5 feet
    - (5) Abutting multi-family zoning district: 7 feet
    - (6) Abutting single-family zoning district: 15 feet
  - c. Maximum building height: 150 feet
  - d. Minimum pervious area: Fifteen percent of the total parcel

**§ 8.11 – Use exceptions**

A. *Purpose and intent.*

In order to provide for adjustment in the relative locations of uses and buildings of the same or of different classifications; to promote the usefulness of these regulations as instruments for fact-finding, interpretation, application, and adjustment; and to supply the necessary flexibility to their efficient operation, use exceptions are permitted by these regulations.

B. *Use exceptions permitted.*

The Village Commission may permit the following buildings and uses as use exceptions, provided there are clear indications that such exceptions will not substantially affect adversely the uses permitted in these regulations of adjacent property.

1. Structural alterations to special uses, after these uses are approved by the Village Commission.
2. Other special uses as may be enumerated in specific zoning districts.
3. Assisted living facility or nursing facility.

4. Temporary sales/marketing office approval for no more than 12 months.
5. Farmers' market
6. Uses that provide a public benefit (parks, open space and other public amenities) that will not adversely affect the existing adjacent uses, the uses permitted in the zoning district of the subject property, or the uses permitted in the zoning district of the adjacent properties.

C. Expiration of use exception.

After the Village Commission has approved a use exception, the use exception shall expire after two years, measured from the date of final Commission action, if no substantial construction or change of use has taken place in accordance with the plans for which the use exception was granted.

D. Reapplication for use exception.

No application for a use exception shall be filed less than one year after the date of disapproval by the Village Commission of an application for a use exception involving the same land or any portion thereof.

**§ 8.12 – Bonus Height.**

Properties in the RM-70 and CG districts may request to purchase additional height from North Bay Village as follows:

A. Approval of bonus height

Requests for bonus height shall be made concurrent with site plan review and shall be reviewed pursuant to the same criteria as site plans, provided in Section 5.8 ULDC. The Village Planning and Zoning Board shall review the request and provide a recommendation to the Village Commission. The Village Commission shall have the authority to approve or deny any bonus height request at a site plan review public hearing.

B. Maximum bonus height

1. The maximum building height (with bonus) that may be approved according to this section is 240 feet.
2. Properties located within the Bay View Overlay District may be approved for additional height according to the provisions of Section 8.10(F).

C. Fees

1. Bonus height community contribution fees shall be paid to North Bay Village in the following manner: a ten percent (10%) nonrefundable deposit shall be paid to the Village within 90 days of site plan approval by the Village Commission; and the balance shall be paid concurrently with the issuance of a building permit. No building permit shall be issued by the Village until the applicant has paid the fees calculated pursuant to this section.
2. The Community contribution fee shall be:
  - a. For every 10 feet of bonus building height approved by the Village Commission, the community contribution fee shall be \$750 per residential dwelling unit in the building and \$250 per hotel/motel sleeping unit in the building; and
  - b. \$10 per square foot for any office, retail or restaurant floor area that exceeds maximum base height, excluding uncovered steps and exterior balconies.

1. Community contribution fees collected according to the bonus height program shall be

utilized for the purchase of future Village parks, land for additional public open space, other public amenities, or infrastructure projects.

2. The bonus fees shall be paid in the following manner:
  - a. Applicant will pay to the Village a deposit equal to 10% of the total bonus height or density fee (the "Bonus Fee") within ninety (90) days of the date the site plan approval becomes final and non-appealable. The deposit will be applied to the total Bonus Fee due.
  - b. The deposit payment shall be non-refundable.
  - c. The deposit will be a credit against the Bonus Fee and such credit will run with the land. Without limiting the foregoing, the deposit will run in favor of all owners and successor owners of the subject property and to all site plan approvals regarding the property, even if one or more site plan approvals expire.
  - d. The development agreement to be executed and recorded in connection with the site plan approval for the corresponding project shall contain appropriate language providing that the Bonus Fee deposit running with the land as provided in item 3 above.

**§ 8.13 – Transfer of Density Rights (TDR) Program**

Properties in the RM-70 and CG districts may request to purchase additional dwelling units from North Bay Village as follows:

**A. Sending Sites**

The sending sites shall be land currently owned by the Village, formerly designated Multi-family High Density Residential Future Land Use, which will not be developed into residential buildings in the future; the Village Hall site on Harbor Island, Vogel Park on Harbor Island, and the public works property on Treasure Island. Total bonus density allocation within the Village shall not exceed the total developable potential of the sending sites. The total land area of these properties is 2.35 acres. The total number of dwelling units available for transfer is as follows:

1. 164 efficiencies, or
2. 164 one-bedroom units, or
3. 149 two-bedroom units, or
4. 136 three-bedroom (or larger) units, or
5. Any combination thereof according to the following table:

<b>Unit Type</b>	<b>Required Lot Area (Sq. Ft./Unit)</b>	<b>Density (Units/Acre)</b>
Efficiency	623	70.0
One-bedroom	623	70.0
Two-bedroom	685	63.6
Three-bedroom or larger	750	58.1

**B. Maximum Density**

1. Total density, including bonus, shall not be approved exceeding 70 dwelling units per acre for any property in the RM-70 district.
2. Total density, including bonus, shall not be approved exceeding 70 dwelling units per acre for properties without direct access to Kennedy Causeway in the CG district.
3. Total density, including bonus, shall not be approved exceeding 100 dwelling units per acre for properties with direct access to Kennedy Causeway in the CG district.

C. Approval of Transfer of Density Rights

Requests for transfer of density rights shall be made concurrent with site plan review. The Village Planning and Zoning Board shall review the request and provide a recommendation to the Village Commission. The Village Commission shall have the authority to approve or deny any TDR request at a site plan review public hearing.

D. Fees

1. A community contribution fee of \$40,000 per transferred dwelling unit shall be paid to North Bay Village within 90 days of site plan approval by the Village Commission.
2. Community contribution fees collected according to the TDR program shall be utilized for the purchase of future Village parks, land for additional public open space, other public amenities, or infrastructure projects.
3. The number of dwelling units that the applicant must purchase to achieve the desired density shall be derived from the following calculation:

(number of dwelling units at total density including TDR allocation) minus  
(number of dwelling units allowed according to base density) equals  
(number of units that must be purchased)

**§ 8.14 – Shoreline accessibility**

All properties in the RM-70 and CG districts contiguous to Biscayne Bay and its natural tributaries shall provide and maintain a shoreline walkway adjacent to and parallel to the riparian right-of-way. The shoreline walkway shall be provided continuously along the water for the full width of the property and shall be at least 10 feet wide. In addition:

- A. Prior to, or concurrent with, site plan approval, the Village Commission shall have the authority to allow the shoreline walkway to be provided in the riparian right-of-way in lieu of providing the shoreline walkway upland on the subject property.
- B. A 5 foot wide public access connection walkway shall be provided and maintained between the shoreline walkway and the public right-of-way.
- C. Easements for both the shoreline walkway and public access connection walkway shall be dedicated and recorded prior to issuance of a building permit. The easement for the shoreline walkway shall provide connection to the shoreline walkways of contiguous properties.
- D. The shoreline walkway and public access walkway shall be open to the public daily, during hours determined by the Village.
- E. Walkway lighting shall be provided and maintained. Lighting shall remain on during any nighttime hours that the walkways are open to the public.
- F. All shoreline accessibility facilities constructed according to this section shall be ADA compliant.

**§ 8.15 – Development agreement for projects with bonus height, bonus density, and/or transferred development rights**

Prior to the approval of a site plan that requests bonus density pursuant to Section 8.10, bonus height pursuant to Section 8.12, and/or the transfer of development rights pursuant to Section 8.13, the Village and the owner of the subject property shall agree on tentative terms for a standard Development Agreement, which shall be presented to the Village Commission as support documentation for the site approval request. The Development Agreement shall reflect any additional terms imposed by the Village Commission as conditions of approval and shall be executable by the Village and the owner of the subject property following Commission approval. The Development Agreement, along with any accompanying development orders, shall vest the project with any density, height, and/or TDR approvals, notwithstanding any future amendments to either the Code or Comprehensive Plan reducing any applicable bonus or modifying the TDR process, provided that the project has not had a failure to commenced as provided herein. The agreement shall contain and address the following information, when applicable:

- A. Statement of ownership and legal description;
- B. Permitted uses and special exceptions;
- C. Minimum dimensional requirements. Such requirement shall include lot area and width, setbacks, building height, minimum floor area, accessory structures and other dimensional information pertinent to the project;
- D. Landscaping, parking and signage requirements;
- E. Applicable design guidelines. The applicant shall submit as a requirement of the master development agreement, conceptual rendering, plans, schematics, and/or other design document, as may be necessary to illustrate that the project is meeting the design guidelines for the district in which the project is located;
- F. Project phasing.
- G. The method by which common areas facilities and areas visible to the public shall be maintained. This includes whether the project will be owner operated or under the control of condominium association, special taxing district, and/or community development district;
- H. The maximum number of dwelling unit, maximum square footage of any commercial uses, and/or the maximum number of hotel rooms;
- I. Improvements to infrastructure that may be required by the UDLC and/or Miami-Dade County by or agreed upon by the Village and the owner of the subject property;
- J. Expiration date; and
- K. Any other information deemed pertinent by the planning and zoning director or Village Commission. The planning and zoning director may waive any of the master development agreement submittal items or portions of items.

The applicant or its successor in interest shall submit yearly progress reports to the Village beginning within six (6) months of the date of approval and within one (1) year thereafter. Pursuant to Section 5.10 of the UDLC, all site plan approvals for which construction has not initiated shall expire two (2) years from the date of final approval, unless otherwise extended by Commission at initial site plan approval or upon request for extension. Development agreements entered into pursuant to this section shall follow the time frame of the corresponding site plan approval and shall also expire concurrently with the expiration of the site plan approval. An extension of the project site plan pursuant to Section 5.10 of the UDLC shall also extend the development agreement for the corresponding project. Initiating construction

shall mean the submission of an application for building permit for the project.

### **DIVISION 3, SUPPLEMENTAL USE REGULATIONS**

#### **§ 8.16 – Supplemental Use Regulations**

##### *A. Accessory uses and structures.*

The following accessory uses and structures shall be permitted when such uses or structures are ancillary, in connection with, and incidental to, the principal use or structure allowed within the zoning district in which the principal use or structure is located.

1. Permitted accessory uses by zoning district

a. In all residential districts:

(1) Private garages or carports provided:

- (a) No solid wall exterior facades or enclosures are allowed;
- (b) Enclosures must create window facades proportional to the existing windows at the front of the home;
- (c) A landscaped area is created in front of the enclosed garage to a depth of 24" inches and covering the width of the original garage opening; and
- d) Such greenspace shall be cut out from any existing driveway material that may run up to the new enclosure, or enclosure may maintain a garage door facade.

(2) Private swimming pools, cabanas, whirlpools, saunas, spas and hot tubs.

(3) Private tennis, basketball or volleyball courts or other similar outdoor recreational uses.

(4) Storage structures, provided no structure exceeds 150 square feet in gross floor area and is not more than 12 feet high from grade.

b. In all zoning districts

(1) Television and radio antenna structures, except for those of a microwave relay or transmission nature, subject to the provisions of Section 8.13(N).

(2) Caretaker or watchman quarters when such quarters are associated with an active construction project.

(3) Storage areas within structures containing multifamily residential dwelling units, provided the storage is reserved for residents of the subject property and provided the storage area does not exceed 5% of the gross floor area of the structure.

(4) Doghouse, pens, and other similar structures for the keeping of commonly accepted household pets, provided, however, the requirements of Sections 91.03 and 91.10 through 91.12 of the Village Code of Ordinances are complied with.

(5) Disaster Shelters

(6) Green building features.

2. Special Regulations. The following regulations shall apply to all accessory uses and structures:

- a. No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.
- b. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which they are located
- c. All accessory uses and structures shall comply with the site development standards applicable in the zoning district in which they are located, unless specifically authorized otherwise herein.
- d. All accessory uses shall be arranged and maintained so as not to encroach into any required yard setback area, unless specifically authorized otherwise within the provisions of this chapter.
- e. All accessory structures shall comply with all provisions of the South Florida Building Code, as amended.

## **DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS**

### **§ 8.17 – Supplemental Development Standards**

#### *A. Awnings and canopies.*

1. Pedestrian related concerns are a priority in the creation of a successful development. Overhead protection from rain and sun should be provided for pedestrians. Awnings have an impact on the appearance of the storefront and building and tend to bring pedestrians closer to shop windows and entrances. Consideration shall be given to the following where applicable:
  - a. Buildings/storefronts should have awnings or other means to provide pedestrians with sun/rain protection unless physically unsuited.
  - b. Continuous awnings over several stores are prohibited.
  - c. Individual awnings should be distinct from its adjacent neighbor. When multiple awnings are attached to one building, awnings shall be of identical height and depth.
  - d. High gloss vinyl (plastic) awnings, backlit, and metal awnings are prohibited. These awnings, because of their high visibility, become attention getting devices - such as a sign, rather than means to provide comfort and protection for the pedestrian. Such awnings overwhelm the appearance of the buildings they are attached to, detracting from architectural qualities. Awnings that incorporate subtle down-lighting in a manner which creates a discreet peripheral washing of the awning, may be appropriate in some instances.
  - e. Metal awnings should be contemporary in design and shall be subject to the same restrictions and guidelines as other awning materials.
  - f. Awnings shall be maintained in good repair, free from tears, fading or peeling.
  - g. Awnings may be supported by poles and connected to the building underneath.
  - h. Awnings needing vertical support columns are prohibited in the setback area.
  - i. The awnings on corner buildings shall continue around the corner for compatibility with building form and pedestrian patterns, wherever possible.
  - j. Awnings shall not to be used where there is an existing projecting concrete sunscreen, except that a vertical awning valance may be suspended below the

sunscreen with a clear height of eight feet above the sidewalk.

- k. Awnings should utilize color schemes that blend with those of neighboring developments as well as consistency in color schemes for the site. Accent colors should be chosen to enhance architectural details. Solid color and broad striped fabric patterns are preferred.

B. *Boats, docks and piers.* Dockage space and facilities for the mooring of pleasure boats, yachts and other noncommercial watercraft may be permitted in any residential district on any waterway as an accessory use, provided that:

1. No boat may be used or maintained for overnight sleeping or living purposes or as a place of residence.
2. No boat may be used for any commercial purpose.
3. Docks shall be constructed and permitted according to Section 9.12.
4. Temporary piers, floating docks, or similar temporary moorings are prohibited.
5. All the regulations, standards, and requirements of Chapter 150 and Section 9.12 of the Village Code shall be complied with.
6. Barges and vessels shall be permitted in residential districts only for loading, unloading and on-site construction, in compliance with Chapter 150 and Section 9.12.

C. *Clotheslines.*

No clotheslines, drying racks, poles, railings, or other similar devices for hanging clothes, rags, or other fabrics shall be erected or maintained in a front or corner side yard.

D. *Construction materials on premises before permit issued; removal of materials.*

1. Construction materials and equipment shall not be deposited on any premises, lot, or proposed building site in any district prior to the obtaining of a building permit as required herein.
2. Surplus materials and construction equipment shall be removed from the premises if the job is abandoned, and before occupancy of the completed structure will be permitted.

E. *Dumpster enclosures.*

1. Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and mechanical rooms shall conform to the following criteria:
  - a. When associated with new construction or rehabilitation valued at more than 30 percent of the building value as determined by the building official:
    - (1) Restaurant and/or drinking uses, trash and garbage facilities shall be within an enclosed, air-conditioned garbage room; and
    - (2) Commercial, office or multifamily uses, trash and garbage facilities shall be within an enclosed, cross-ventilated garbage room.
  - b. When located outside of the building, the trash and garbage facilities shall be enclosed within a decorative CBS, wood, metal or recycled products material, opaque structure. The structure (including opaque gates) shall be painted or finished

to match the building appearance. No such containers shall be kept, utilized, left stored or maintained in front of any principal structure, except on collection day.

- c. Dumpster enclosures shall be located in visually obscure areas of the site and shall be designed in a manner as to visually screen the dumpster from adjacent view, and shall include a dumpster locking device on containers that include food waste to prevent access to the dumpster by birds or rodents.
- d. Dumpster enclosures shall be placed in such a manner as to allow sanitation trucks to pick up garbage in a manner they are designed for.
- e. Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grilles, and shall be painted in muted colors or match the building, and shall not be visible from the street.
- f. All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.
- g. Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.
- h. Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.

F. *Fences, walls and hedges.*

1. When required

- a. An eight-foot-high wall, hedge, or fence shall be required along all side and rear commercial property lines which are contiguous to a residential zoned property, subject to vision clearance requirements established elsewhere in this section.
- b. All permitted outdoor storage areas in multifamily residential and commercial zones shall be visually screened from public view by an eight-foot-high solid wood or masonry fence or wall.
- c. Fences or walls to be built in connection with other permitted recreational uses such as baseball backstops, tennis courts, handball courts, and the like shall be permitted at the height necessary for the particular use.
- d. All vacant lots adjacent to Kennedy Causeway shall be hedged along that portion of the lot which is adjacent to Kennedy Causeway.
  - (1) The hedge shall not exceed four feet in height and not be lower than two feet in height and shall be of sufficient thickness and density so as to provide a physical barrier similar in effect to a fence.
  - (2) The hedges shall be continuously and regularly trimmed, and any dead plants, or plants which fail to bear leaves, shall be regularly and timely replaced.
  - (3) The remainder of the lots shall be fenced or hedged so as to prevent the unauthorized entry of motor vehicles thereon.
- e. Concrete Block Walls. No fence, solid contiguous wall or ledge consisting of blocks or concrete shall be erected, constructed, installed or maintained in any manner parallel to the 79th Street Causeway.

2. Prohibitions

- a. No fence, wall, or hedge may be constructed, installed, or maintained within six feet of any fire hydrant or other emergency apparatus.
- b. No fence, wall, or hedge may be constructed, installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any fence which obstructs or obscures vision, or any wall or hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.
- c. No wall or fence shall exceed five feet in height within any required front yard setback, provided such fence or wall does not create a visual obstruction to pedestrian or vehicular traffic. For fences on corner lots, both street frontages shall be considered front yards. Additionally:
  - (1) Landscaping shall be required on the street side of any such wall or fence and the entire width of the landscape bed shall be at least 18 inches for the entire length of the fence or wall, excluding gated sections.
  - (2) Any concrete wall or concrete block wall shall be sustained in a finished condition.
- d. Hedge heights shall not exceed twelve (12) feet in height in the front, rear and side setbacks in the RS-1 and RS-2 Districts, provided that:
  - (1) Such hedges do not interfere with vehicular traffic or visibility on public rights-of-way;
  - (2) Such hedges are neatly trimmed;
  - (3) The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties in order avoid any hindrance to said neighboring property.
  - (4) Hedge planting is strictly prohibited within the Village right-of-way or easement area.
- e. Walls and fences in the rear and side setbacks shall not exceed a height of six feet.
- f. No chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)
- g. Ornamental entrances, fountains, plant containers, and similar architectural features exceeding the wall height restriction will be permitted, provided that:
  - (1) No such feature shall exceed in height the wall height restriction for that district plus three feet; and
  - (2) There shall be only one such feature in any front, side or rear yard, except that there may be two entrance gates.
- h. Planting of vegetation in easement areas shall conform to the following:
  - (1) No trees may be planted within any easement or public right-of-way area as shown on the recorded plats of the various subdivisions of the Village ("easement areas").
    - (a) Nothing in this section shall be construed to prohibit the planting of low growth landscaping in the easement or right-of-way areas ("easement landscaping").

- (b) Easement or right-of-way landscaping is subject to removal by the Village without notice in the event that this landscaping impedes access to these areas. The Village shall not be responsible for damage to the removed landscaping;
    - (c) Prior to planting such easement landscaping in easement areas, the property owner shall execute a permission for removal, release and indemnification agreement, in a form acceptable to the Village, pertaining to such easement.
  - i. For single family properties on North Bay Island. The linear footage of any property's street front Village easement or right-of-way area must maintain a greenspace (pervious) area whereby the permissible paved area is to be limited to only 40 percent of that total linear footage.
    - (1) The protected greenspace shall be restricted from any paving materials including but not limited to asphalt, concrete, brick, pavers, gravel or solid cover of mulch.
    - (2) The depth of that protected pervious area must be maintained at full easement depth from the street to the property boundaries.
    - (3) Any paving of the property frontage beyond the easement area (within front yard), and greater than 40 percent of the permitted linear footage must create a green landscape facade to decrease the sight line of that paved surface from the street view.
  - j. For single family properties on all islands.
    - (1) Front yard area may be paved up to 40 percent of the total linear footage.
    - (2) The balance of footage may only be paved if a greenspace is created between the Village's sidewalk and the paved area, for a depth of no less than 48 inches, and heavily landscaped to create green landscape facade to decrease the sight line of that paved surface from the street.
  - k. Nonconforming uses of land. The lawful use of land existing at the time of the passage of this ordinance or an amendment thereto, although such uses do not conform to the provisions of this ordinance, may be continued subject to the following provisions:
    - (1) Front yard areas may not be increased in paved areas.
    - (2) All rights and obligations subject to the nonconforming use of the land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy.
- 3. General requirements
  - a. Construction and materials.
    - (1) No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals.
    - (2) Fences which are erected with sheathing, pickets or slats on one side only shall have such materials placed on the side of the fence facing the adjacent property in such a manner as to conceal the structural elements of the fence from off premises view.

- (3) Walls or fences constructed of concrete block shall be constructed so that the side facing away from the property on which the wall or fence is located shall be finished with stucco or some other approved material.
  - b. Maintenance. All fences, walls, and hedges shall be maintained in a safe, attractive, and non-hazardous condition.
    - (1) Hedges shall not extend over or into the public right-of-way for the full height of the hedge.
    - (2) Maximum height.
      - (a) No fence or wall shall exceed six feet in height and no hedge shall exceed six feet except as may be permitted or further restricted elsewhere in this section.
      - (b) The height of a wall, fence, or hedge shall be the vertical distance measured from the average elevation of the finished building site to the top of the wall, fence, or hedge.
      - (c) The average elevation shall be measured along the wall, fence, or hedge line that the same is to be placed.
      - (d) The land within the area which the wall, fence, or hedge is to be placed may not be increased or decreased to affect the permitted height unless the entire building site is to be graded to level off this area.
4. Temporary fence around construction site. Nothing in this section shall be deemed to prohibit the erection and maintenance of a temporary fence around construction sites on which actual construction activity is taking place pursuant to a valid active building permit.
  - a. The fence may exceed the height limitations in this zoning code if the fence is constructed of solid wood (or plywood) and is decorated in an attractive and artful design as shall be determined by the Village Commission or appropriately designated board.
  - b. In no event shall the fence exceed eight feet in height.
  - c. Chain link fences shall not be the permitted around construction sites unless screening is used with the chain link to conceal construction materials from outside view.
5. Existing nonconforming fences and/or walls; removal.
  - a. Intent. It is the intent of this division to recognize that the eventual elimination of existing fences, that do not conform with the provisions of this chapter, in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new fences that would violate the provisions of these regulations. It is also the intent of this division that there shall not be any unreasonable burden upon established private property rights.
  - b. Continuance. Subject to the amortization schedule below, a nonconforming fence may be continued and shall be maintained in good condition, but shall not be:
    - (1) Enlarged or changed to another nonconforming fence.

- (2) Reestablished after its removal.
  - (3) Reestablished after being damaged or deteriorated whereby the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.
- c. It shall be the responsibility of the Code Enforcement Officer to make an inventory and a record of all nonconforming fences and to serve notice on the owners or users of such fences within 30 days after the adoption of these regulations. The period of nonconformity shall nonetheless begin as of the date of the passing of this division. The inventory shall include the following:
- (1) Owner.
  - (2) Type of fence
  - (3) Location.
  - (4) Reason for classification as nonconforming.
  - 5) Date fence was erected.
6. Fences, privacy walls, and hedges for government uses and facilities.
- a. Applicability. This section applies to fences, privacy walls and hedges erected by a governmental entity for a governmental use including, but not limited to, parks, recreation areas, government offices, utility facilities, parking, or storage sites.
  - b. Approval. Governmental entities other than North Bay Village may only be approved for fences, privacy walls and hedges according to this Section by the Village Commission at public hearing, following a recommendation by the Village Planning Zoning Board.
  - c. Location. Fences, privacy walls, and hedges installed in any location on the subject property as necessary to ensure safety and compatibility.
  - d. Height. Fences, privacy walls, and hedges may be installed at heights necessary to ensure safety and compatibility.
  - e. Materials. Fences and privacy walls may be constructed with materials which are necessary to ensure safety and compatibility, including but not limited to, chain link, wood, masonry and vinyl.
- G. *Height exceptions.*
- 1. Church steeples, bell towers, chimneys, tanks, decorative features, elevator lift housing, air conditioning units, or other mechanical or functional features may exceed zoning district height requirements, except as may be otherwise stipulated herein.
  - 2. Rooftop solar photovoltaic or solar water heater systems may exceed the permissible height limit in any district by not more than five (5) feet. Rooftop solar photovoltaic or solar water heater systems are not required to be screened.
  - 3. The structural components of a green roof (non-vegetative components) may exceed the permissible height limit in any district by not more than five (5) feet. The external perimeters of green roof systems are required to be aesthetically compatible with the building exterior and screening may be required and will be determined on a case-by-case basis by the Public Works Director or designee.
  - 4. The top of a wind turbine may exceed the permissible height limit in any district by not more than ten (10) feet. Wind turbines are not required to be screened. Wind turbines exceeding this height will require an approval through the variance process established in

## Chapter 7.

### H. *Outdoor dining and sidewalk cafes.*

1. Café tables in the right-of-way can bring activity to the street. They can provide a wonderful means of people-watching for diners and pedestrians. Consideration should be given to unification of these elements within a block from street to street.
2. Restaurants and bars are also encouraged to provide outdoor service in courtyards or arcades.
3. Sidewalk cafés on the public right-of-way may be allowed upon approval by the Village Commission.
4. Outdoor restaurants, bars or sidewalk cafés must be associated with an adjacent licensed restaurant and comply with all other zoning regulations and conform to the following criteria:
  - a. An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include:
    - (1) Layout of all tables, chairs, benches, and other furniture;
    - (2) Pedestrian ingress and egress;
    - (3) Location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).
  - b. Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions, modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager.
    - (1) Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.
    - (2) The fee for outdoor dining/seating use and area will be charged annually in the amount of \$250.00; the permit fee shall be added to the occupational license fee for the main business.
  - c. The applicant shall provide an indemnity agreement that is acceptable to the Village Manager. This agreement will include specification of liability insurance to be provided.
  - d. The conditional use permitting of outdoor seating/dining use and area may be revoked by the Village Manager or his/her designee, upon finding that:
    - (1) One or more conditions of these regulations have been violated, or
    - (2) That the outdoor seating/dining area and use are being operated in a manner that constitutes a public nuisance, or in any way that constitutes a reasonable risk of potential liability to the Village.
  - e. Outdoor seating/dining use and area may be temporarily suspended by the Village for public use/purpose, utility, sidewalk or road repairs, emergency situations, or violations of provisions contained herein.

- f. The length of suspension shall be determined by the Village Manager as necessary.
- g. Removal of all street furniture and related obstructions shall be the responsibility of the owner/operator of the outdoor seating/dining.
- h. Outdoor seating/dining area shall be kept in a neat and orderly appearance and shall be kept free from refuse and debris. The applicant shall be responsible for daily cleaning and sweeping of the outdoor seating/dining area and for the cleanliness and maintenance of any outdoor planters immediately adjacent to the outdoor seating/dining area.
- i. Use of Village sidewalks for trash and garbage removal shall be prohibited.
- j. Outdoor seating/dining use and area shall not interfere with the free and unobstructed pedestrian or vehicular circulation of traffic, public access to any street intersections, crosswalks, public seating areas and conveniences, bus stops, alleys, service easements, handicap facilities, or access to any other commercial establishments.
- k. If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;
- l. Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.
- m. Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner.
- n. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.
- o. Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment
- p. Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.
- q. Carts and trays for serving food are permitted in the outdoor seating/dining area.
- r. Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.
- s. Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided:
  - (1) No entertainment of any kind is furnished.
  - (2) No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.
- t. Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.
- u. The hours of operation shall coincide with that of the primary restaurant.
- v. Placement of tables, chairs and related equipment shall be situated to ensure that a minimum of five feet straight pathway on the sidewalk is maintained at all times as an unobstructed pedestrian path.

- w. Serving through windows is not permitted.
- x. Food preparation shall only occur in the enclosed restaurant.
- y. Because tables provide sufficient advertisement, no additional signs for sidewalk café are permitted.
- z. Outdoor furniture shall be substantial enough not to blow over with normal winds.
  - aa. All outdoor furniture and fixtures shall be tastefully compatible and approved by the Planning and Zoning Official.
  - bb. All disposable table materials such as plates, glasses, and napkins shall be imprinted with the name of the café (stickers may be used). This regulation is to control litter.
  - cc. Sidewalk cafés shall receive a revocable permit subject to the procedures established by the Village.

I. *Recreational and camping equipment.*

Recreational and camping equipment in the form of travel and camping trailers, truck trailers, and motor travel homes, designed and used as temporary living quarters for recreation, camping, or travel use may be parked in the open on sites containing single-family residences, subject to the following conditions:

- a. No more than one piece of recreation or camping equipment shall be parked on the site.
- b. Such parking shall be limited to the equipment owned or leased by the owner-occupant or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-Dade County house guest of the occupant of the site concerned, with the parking of such equipment by the guest not to exceed 14 days.
- c. The location for such parked equipment shall be to the rear of the front building line and behind the side street building line, in each case the building line referred to being that portion furthest from the street.
- d. Such equipment and the area of parking shall be maintained in a clean, neat, and presentable manner and the equipment shall be in a usable condition at all times.
- e. Such equipment shall, at all times, have attached a current vehicle registration license tag.
- f. No major repairs or overhaul work on such equipment shall be made or performed on the site or any other work performed thereon which would constitute a nuisance under existing ordinances.
- g. When parked on the site, such equipment shall not:
  - (1) Be used for living or sleeping quarters, or
  - (2) Be used for housekeeping or storage purposes and
  - (3) Shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment.
- h. The maximum length permitted for such equipment shall not exceed 30 feet and the maximum height shall not exceed ten feet.
- i. Such equipment shall be so secured that it will not be a hazard or menace during high winds or a hurricane.

J. *Safe and sanitary dwelling unit standards.*

The following shall be the minimum standards to be enforced in North Bay Village relative to the safe and sanitary maintenance of dwellings and dwelling units:

1. All foundation walls shall be structurally sound, reasonably rodent-proof, and maintained in good repair.
2. Foundation walls shall be considered to be sound if they are capable of bearing imposed loads and are not deteriorated.
3. Every dwelling unit shall be reasonably weathertight, watertight, and rodent-proof.
  - a. Floors, walls, ceilings, and roofs shall be capable of affording adequate shelter and privacy and shall be kept in good repair.
  - b. Windows and exterior doors shall be reasonably weathertight, watertight and rodent proof, and shall be maintained in good working condition.
  - c. All parts of the structure that show evidence of rot or other deterioration shall be repaired or replaced.
4. Every inside and outside stairway, porch, and every appurtenance thereto, shall be maintained in a safe condition and be capable of supporting loads which normal use may impose.
5. Every chimney and smoke pipe, and all flue and vent attachments thereto, shall be maintained in such condition that there will be no leakage or backing up of smoke and noxious gases into the dwelling.
6. All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.
7. Every plumbing fixture, water pipe, waste pipe, and drain shall be maintained in good sanitary working condition, free from defects, leaks, and obstructions.
8. The floor surface of every water closet compartment, bathroom, and shower room shall be maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
9. Every supplied facility, piece of equipment, or utility shall be maintained in a safe and satisfactory working condition.
10. No owner or occupant shall cause any service, facility, equipment, or utility required to be removed from or discontinued for any occupied dwelling or dwelling unit except for such temporary interruption as may be necessary while actual repairs, replacement, or alterations are in process.
11. For these purposes, every owner of a building containing three or more dwelling units, shall provide the continuing service of a person or persons solely to assure that the minimum requirements of maintenance and sanitation, as provided herein are maintained on the premises at all times.
12. The provisions of the Dade County Minimum Housing Code shall apply as a minimum standard for Village enforcement.

K. *Security guards.*

1. Definitions: The term security guards shall be synonymous with burglar guards and shall

refer to steel bars commonly installed on the exterior or interior of doors or entryways and windows or breezeways or private residences, including free standing as well as multifamily residences and commercial and industrial buildings.

2. No security guards may be installed on the exterior of doors and entryways, windows and breezeways on front and side elevations of buildings which face a street or public right-of-way.
3. Continuance and removal of nonconforming security guards.
  - a. A nonconforming security guard (one which is in existence at the effective date of this section) may be maintained and continued in use as a legal nonconforming use.
  - b. However, no such security guard may be enlarged or replaced by another nonconforming device.
  - c. At such time as title to the property changes, all nonconforming security guards shall be removed.
  - d. Title change shall be defined to mean any change of record ownership, other than by survival or by inheritance of a tenant by the entreaties.

L. *Setback encroachments.*

Every part of every required front, side, and rear yard setback shall be open and unobstructed from the ground to the sky except as herein provided.

1. Cornices, roof overhangs, window air conditioning units, awnings, chimneys, and sills may extend into a required side or rear yard, provided any such extension does not exceed 36 inches into the required yard.
2. Balconies shall be permitted to project to a distance of 48 inches into the required yard, provided there is a seven-foot clear span.
3. Fences and privacy walls as provided in Section 8.13(F).
4. Swimming pool and pool decks as provided in Section 8.13(M).
5. Signs as provided in Chapter 11.
6. Landscaping retaining walls, parking curbs/bumpers, and other similar features less than 6 inches in height.
7. Light poles and flag poles as provided in Section 8.13(N)
8. In single family districts only, the following setback encroachments are allowed:
  - a. Ground mounted mechanical equipment, including air conditioning equipment, pool equipment, heat pumps, water heaters, generators and other similar equipment, may be placed in a side yard setback area; provided the unobstructed side setback area is not reduced by more than 50 percent of what is required in the zoning district regulations and provided the equipment placed in the setback area does not operate above 70 decibels.
  - b. A garden window for the cultivation of small plants may extend into the setback area not more than 24 inches
9. In all zoning districts other than single family, the following setback encroachments are allowed:

- a. A canopy shall be permitted to extend from the entrance door to the front property line provided:
  - i. The canopy does not exceed 12 feet in height or be screened or enclosed in any manner; and
  - ii. The canopy shall be required to be removed during hurricane warning periods.
  - iii. A clear space is provided between the grade and the bottom of the valance of at least six and one-half feet.
  - iv. Additional awning/canopy requirements of section 8.13(A) shall be complied with.
- b. An entrance feature/port cochere may extend from the entrance door into the front setback area provided:
  - i. Support columns may not be placed closer than 7 feet to the property line.
  - ii. At least 14.5 feet of vertical clearance shall be provided.
  - ii. The width of the entry feature/port cochere shall not exceed 25 feet or 20% of the subject property frontage width, whichever is greater.
  - ii. The entrance feature/port cochere may extend from the entrance door to the front property line, or a distance of 35 feet, whichever is more restrictive.

**M. Swimming pools.**

1. Purpose and intent. The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa or hot tub will reduce drowning and near-drowning incident.

In addition to the incalculable human cost of the submersion incidents, the health care costs, loss of lifetime productivity and legal and administrative expenses associated with drowning of young children and medically frail elderly persons in this state each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incident each year is enormous.

2. Standards and requirements.

- a. Any swimming pool operated by a residential homeowner, ~~or~~ condominium association, or by the resident of a single-family dwelling shall be permitted as an accessory use and shall exist only in conjunction with the principal use on the same lot, subject to the regulations stated herein.
- b. A swimming pool may be permitted in any rear yard; however, in no instance shall it be located nearer than the following distances from any property line or structure:

<b>Setback</b>	<b>Distance (Feet)</b>
Front	25

Side (interior)	7.5
Rear or Easement	7.5
Structure	5
Side (corner)	15

- c. Access. Exterior access to a swimming pool shall be through a self-closing and self-latching gate with latches placed at least four feet above grade and operable from the pool area only.
  - d. Drainage. If a patio is provided adjacent to or surrounding a swimming pool, it shall be designed so as to be self-draining away from the pool.
  - e. Lighting. Artificial lighting used to illuminate the premises shall be shielded and directed away from adjacent properties and streets, shining only on the subject site.
  - f. Height. Swimming pools and appurtenances shall not exceed a height of two feet above grade.
  - g. Additional requirements. In addition to the foregoing requirements, all regulations and standards of Sections 151.01 through 151.18 of the Village's Code of Ordinances, and the Florida Building Code shall be complied with.
3. Barriers for swimming pools, spas and hot tubs required.

Barriers must be placed around the perimeter of the pool, spa or hot tub and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, spa or hot tub that is being used as part of the barrier, and meets the barrier requirements of this chapter, chapter 151 of this Code, and the Florida Building Code.

a. Barrier construction

- (1) A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide direct access from the home to the swimming pool, spa or hot tub.
- (2) Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:
  - (a) All doors and windows providing direct access from the home to the pool, spa or hot tub shall be equipped with an exit alarm complying with this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code that has a minimum sound pressure rating of 85 dB.
  - (b) At 10 feet the exit alarm shall produce a continuous audible warning when the door and its screen are opened.
    - i. The alarm shall sound immediately after the door is opened and be capable of being heard throughout the house during normal household activities.
    - ii. The alarm shall be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds.
    - iii. The deactivation switch shall be located at least 54 inches above the threshold of the door.

- iv. Separate alarms are not required for each door or window if sensors wired to a central alarm sound when contact is broken at any opening.
  - (c) All doors providing direct access from the home to the pool, spa or hot tub must be equipped with a self-closing, self-latching device with positive mechanical latching/locking installed a minimum of 54 inches above the threshold, which is approved by the authority having jurisdiction.
  - (d) Exceptions:
    - i. Screened or protected windows having a bottom sill height of 48 inches or more measured from the interior finished floor at the pool, spa or hot tub access level.
    - ii. Windows facing the pool, spa or hot tub on floor above the first story. Screened or protected pass-through kitchen windows 42 inches or higher with a counter beneath.
- (3) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub.
- (4) The maximum vertical clearance between grade and the bottom of the barrier shall be 2 inches measured on the side of the barrier which faces away from the swimming pool, spa and/or hot tub.
- (5) Where the top of the pool, spa or hot tub structure is above grade the barrier may be at ground level or mounted on top of the pool, spa or hot tub structure.
- (6) Where the barrier is mounted on top of the pool, spa or hot tub structure, the maximum vertical clearance between the top of the pool, spa or hot tub structure and the bottom of the barrier shall be 4 inches.
- (7) Maximum mesh size for chain link fences shall be a 2¼ inch square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to no more than 1¾ inches. A mesh safety barrier meeting the following minimum requirements shall be considered a barrier as defined in this section:
  - (a) Individual component vertical support posts shall be capable of resisting a minimum of 52 pounds (229 N) of horizontal force prior to breakage when measured at a 36-inch height above grade.
  - (b) Vertical posts of the child mesh safety barrier shall extend a minimum of 3 inches below deck level and shall be spaced no greater than 36 inches apart.
  - (c) The mesh utilized in the barrier shall have a minimum tensile strength according to ASTM D 5034 of 100 lbf., and a minimum ball burst strength according to ASTM D 3787 of 150 lbf. The mesh shall not be capable of deformation such that a ¼ inch round object could pass through the mesh. The mesh shall receive a descriptive performance rating of no less than "trace discoloration" or "slight discoloration" when tested according to ASTM G 53 (Weatherability, 1,200 hours).
  - (d) When using a molding strip to attach the mesh to the vertical posts, this strip shall contain, at a minimum, #8 by percent-inch screws with a minimum of two screws at the top and two at the bottom with the remaining screws spaced a maximum of 6 inches apart on center.
  - (e) Patio deck sleeves (vertical post receptacles) placed inside the patio surface

shall be of a nonconductive material.

- (f) A latching device shall attach each barrier section at a height no lower than 45 inches above grade. Common latching devices which include, but are not limited to, devices that provide the security equal to or greater than that of a hook and eye type latch incorporating a spring actuated retaining level (commonly referred to as a safety gate hook).
- (g) The bottom of the child mesh safety barrier shall not be more than 1 inch above the deck or installed surface (grade).
- (8) The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier as herein described below.
- (9) One end of a removable child barrier shall not be removable without the aid of tools. Openings in any barrier shall not allow passage of a 4-inch-diameter sphere.
- (10) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool, spa or hot tub side of the fence.
- (11) Spacing between vertical members shall not exceed 1¾ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1¾ inches in width.
- (12) Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1¾ inches.
- (13) Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- (14) Where an aboveground pool, spa or hot tub structure is used as a barrier or where the barrier is mounted on top of the pool, spa or hot tub structure, and the means of access is a ladder or steps;
  - (a) The ladder or steps either shall be capable of being secured, locked or removed to prevent access, or
  - (b) The ladder or steps shall be surrounded by a barrier which meets the requirements of this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code.
  - (c) When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter sphere.
- (15) Any permitted swimming pool may be enclosed by a screen enclosure, provided the enclosure is constructed of material which is 90 percent screening.
- (16) Screen enclosures shall have the same minimum side setbacks as those stated above for swimming pools.
- (17) Standard screen enclosures which meet the requirements of the Florida Building Code, may be utilized as part of or all of the "barrier" and shall be considered a "non-dwelling" wall.
- (18) Removable child barriers shall have one end of the barrier non-removable

without the aid of tools.

- (19) Removable child barriers must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may manage to penetrate the barrier from immediately falling into the water.
  - (a) Sufficiently away from the water's edge shall mean no less than 20 inches from the barrier to the water's edge.
  - (b) Dwelling or non-dwelling walls including screen enclosures, when used as part or all of the "barrier" and meeting the other barrier requirements, may be as close to the water's edge as permitted by this Code.
- (20) A barrier may not be located in a way that allows any permanent structure, equipment, or window that opens to provide access from the home to the swimming pool, spa and/or hot tub.

b. Access to swimming pools, spas and hot tubs.

Access gates, when provided, shall be self-closing and shall be equipped with a self-latching locking device located on the pool, spa or hot tub side of the gate.

- (1) Where the device release is located no less than 54 inches from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside.
- (2) Gates that provide access to the swimming pool, spa or hot tub must open outward away from the pool, spa or hot tub.
- (3) The gates and barrier shall have no opening greater than ½ inch within 18 inches of the release mechanism.

c. Adjacent waterways as barriers.

- (1) Permanent natural or permanent man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool, spa or hot tub may be permitted as a barrier when approved by the authority having jurisdiction.
- (2) When evaluating such barrier features, the authority may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify, at a minimum, the following:
  - (a) The barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as provided by the code.
  - (b) The barrier feature clearly impedes, prohibits or restricts access to the swimming pool, spa or hot tub.

d. Schedule of penalties.

Failure to comply with the requirements of any section of this chapter may result in a penalty as provided in Section 153 of the North Bay Village Code.

N. *Towers, antennas, poles and masts.*

1. Generally.

Prior to the erection of a water tower, standpipe, windmill, tower, aerial, antenna, pole, mast, or other vertical structure over ten feet in height above the roof of a permitted structure, or over 20 feet in height if erected at grade, the requirements of this section and the South Florida Building Code shall be observed.

a. Plans and specification required.

Plans and specifications for the structures listed above shall be submitted to the Building Official showing:

- (1) All dimensions, size, and kind of members, footings, and guy wires;
- (2) The location, depth, and type of guy anchors and footings;
- (3) The type and weight of the antenna, apparatus, or structure to be attached to or supported by the structure; and
- (4) An application made for a permit.

b. Maximum height.

- (1) The vertical height of any of the above structures shall not be greater than 90 percent of the horizontal distance from its base to the nearest property line.
- (2) Radio towers, where incidental to a business use in the commercial district, may extend to a height of 150 feet measured from ground elevation.
- (3) Poles, masts, and towers for supporting antenna used in the operation of amateur radio stations, citizen band radio stations, and citizen band radio stations licensed by the Federal Communications Commission shall be excepted from the above regulations and shall be governed by the following requirements:
  - (a) All poles, masts, towers, and beam array antennas shall be placed not less than five feet from a public right-of-way line or adjacent property line, or nearer than one foot from any easement.
  - (b) All such installations shall conform to the requirements of the National Electrical Code and applicable FCC regulations, and be located not less than eight feet from any power line over 250 volts, including the beam elements or any part thereof.
  - (c) Permits shall be required for the installation of any poles, masts, or towers over 20 feet above the roof of any structure to which they may be attached, and for any installation over 35 feet in height when erected from grade. Applications for permits shall be accompanied by three copies of plans and specifications showing:
    - (1) All dimensions, size and kind of members,
    - (2) Footings and guy wires;
    - (3) The location, depth and type of guy anchors and footings; and
    - (4) The type and weight of the antenna, apparatus or structure to be attached to or supported by the structure.
  - (d) Poles shall be of an approved creosoted type or treated or painted with a chemical preservative and an outer coat of oil base paint before installation. The color shall match the surrounding development.
  - (e) The recommended depth of holes for various type poles shall be subject to

acceptable engineering standards:

<b>Pole Height Above-ground (feet)</b>	<b>Hole Depth in Firm Ground (feet)</b>	<b>Hole Depth in Rock Ground (feet)</b>
16	3.5	3
20	4	3
25	5	3
35	6	4
50	7	5

- (f) If the earth is damp or soggy, the depth of hole is to be increased by one foot.
  - (g) If carrying a beam, poles must be properly guyed, as is the case where the pulling effect of the wire antenna or weight of other installations will require guying.
  - (h) Wood masts shall be chemically treated, painted with an outside coat of oil base paint, and suitably guyed at the top and middle in at least three different directions.
  - (i) Masts to support a beam, whether of wood or metal pipe, shall comply with all the applicable regulations in regard to the location, guying and the like, and the maximum allowable weight of antenna, rotator and components shall not exceed 150 pounds.
  - (j) Towers of steel, iron or aluminum, whether of the rigid non-demountable type or the rigid, demountable type with the crank-up, crank-down and either the hinged base or swivel crank-over features shall carry no more weight on the top than specified by the manufacturers specifications.
  - (k) In calculating the height of demountable type towers, the top of the lower rigid section shall be considered the top for the purpose of this section.
  - (l) Beam array antennas shall be mounted so as to provide easy servicing and easy access for the removal at approach of hurricanes, or provide for the lowering of such beam.
2. Dish antennas.
- a. Application. This section shall apply only to private noncommercial dish antennas as defined in subsection (B)(2) below. This section shall supplement and not repeal or modify the requirements of Section 8.10(E)(5).
  - b. Definitions:
    - (1) Dish antenna means a dish antenna intended for the purpose of receiving communications from orbiting satellites and other extraterrestrial sources, a low noise amplifier (L.N.A) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.
    - (2) A private noncommercial dish antenna is a dish antenna for a single-family residence which is erected solely for the use of its owners. Said antenna shall not be used for the purpose of obtaining revenue.

- c. Placement. Private noncommercial dish antennae may be permitted in North Bay Village provided:
  - (1) They are located in the rear yard.
  - (2) They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten feet to said property lines.
  - (3) On corner properties, no portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.
  - (4) Roof-mounted dish antennae shall not be permitted except on two-story buildings with a flat roof, provided the antenna cannot be viewed from ground level, and in no instance is to exceed in height 15 [feet] above the roof.
- d. Dimensions. The height of dish antennas, on the ground, shall not exceed 15 feet from ground level nor shall their diameter exceed 12 feet.
- e. Number allowed; color. Only one dish antenna shall be allowed per single-family house, and antennas shall be neutral in color, and one color only.
- f. Anchorage. All dish antennae shall be anchored securely to the ground or structure in compliance with the requirements of the South Florida Building Code relative to structures.
- g. Permit required. No dish antenna shall be erected until a permit has been issued by North Bay Village. All applications for a permit shall be accompanied by a site plan showing the proposed location of the antenna, the type, color, height and diameter of the antenna and the proposed landscaping.
- h. Screening. A private noncommercial dish antenna shall be screened by landscaping on its sides so as to obscure its visibility from the abutting properties' ground view.
- i. Once installed, dish antennas and related appurtenances must be maintained in good and operable condition, and the surrounding landscaping shall likewise be continuously maintained for the intended screening purpose.
- j. Nonconforming uses. All dish antennas that are legally existing on October 23, 1990, shall be allowed to remain until such time that they may be replaced, or the cost of repairs exceeds 50 percent of the replacement at which time they shall conform in all respects to this section.

### 3. Screening of mechanical equipment.

Lack of, or inadequate screening of, mechanical equipment can have negative visual impacts on the Village's streetscape, ambient landscape, and community image. Such impacts shall be minimized through compliance with the following requirements:

- a. Mechanical equipment located on the ground, such as air conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, utilities lift stations and the like shall be screened from public view. Screening shall, at a minimum be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish, with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.

- b. Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All screening shall, at a minimum be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s).
- c. Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be approved where utilization of approved roof designs precludes full screening of exposed surfaces.

## **DIVISION 5, GREEN BUILDING PROGRAM**

### **§ 8.18 – Purpose and intent.**

The Village has determined that the demolition, construction, and maintenance of buildings within the Village will have a significant impact on the Village’s environmental sustainability, resource usage, waste management, and the health and productivity of the residents, employees, and visitors. Green building construction increases the efficiency with which buildings and their sites use and harvest energy, water, and materials thereby reducing building impacts on human health, the environment, and the Village. The Village has also determined that the use of certified green building professionals during the design and planning of a project can significantly improve the sustainability of the finished product and the efficiency at which it is implemented.

### **§ 8.19 – Applicability.**

The green building requirements of this Division shall apply to all Zoning Districts, Form-Based Districts and transect Zones within the Village and to the following development:

- A. All new and substantial redevelopment applications for residential, commercial, office, hotels, and civic uses.
- B. All new mixed-use development applications.
- C. For any Village-owned civic or office construction project, the Village is expected to incorporate the green building requirements of this Chapter unless the Village Commission, in its sole discretion, demonstrates that the cost (e.g., time, function, or funding) associated with the requirements significantly outweighs the benefits to the Village.

### **§ 8.20 - Requirements.**

Requirements for applications subject to the green building program are as follows:

- A. All development subject to the green building program shall incorporate design options from the Table in § 8.21 *Green Building Development Options and Points* to achieve the minimum number of points as specified below:
  - 1. Single family residential shall achieve a minimum of ten (10) points.
  - 2. Multi-family residential shall achieve a minimum of ~~twelve~~ ~~eighteen~~ ~~(1218)~~ points.
  - 3. Mixed-use projects shall achieve a minimum of ~~fourteen~~ ~~twenty~~ ~~(1420)~~ points.
  - 4. Commercial and Office projects shall achieve a minimum of ~~fourteen~~ ~~twenty~~ ~~(1420)~~ points.
  - 5. Hotel projects shall achieve a minimum of ~~sixteen~~ ~~twenty~~ ~~(1620)~~ points.
  - 6. Civic Uses shall achieve a minimum of ~~fourteen~~ ~~twenty~~ ~~(1420)~~ points.

- B. Upon site plan submittal, applicants shall provide a written description of their proposed strategy to achieve the required number of points from the Table § 8.21 Green Building Development Options and Points. In the case of projects pursuing certification through an approved third-party green building program, a completed official certification checklist shall be submitted with the application.
- C. All development subject to the green building program shall retain a USGBC LEED Accredited Professional, FGBC Designated Professional, an accredited NGBS Green Verifier, or other verified green building accredited professional within their planning and design team.
- D. For those projects pursuing green building certification through an approved third-party green building program, the green building certification must be issued prior to shall be obtained within twelve (12) months of the issuance of the certificate of occupancy (CO) by the North Bay Village. Failure to submit the green building certification to the Village within this timeframe shall result in a Notice of Violation (NOV).
- E. No pennants, ribbons, balloons, flags, banners or similar material shall be placed on any Green Building Feature.
- F. Certification signage or green feature acknowledgment plaques shall be pre-approved as a part of the permit issuance process.

**§ 8.21 - Green building development options and points.**

The table within this subsection lists green building design options, the points available for incorporating each design option, and a brief description of the design option standards.

<u>Green Design Option</u>	<u>Points</u>	<u>Description</u>
<u>Photovoltaic system</u>	<u>4</u>	<u>Generate at least 30% of projected daytime needs energy demand based on daytime peak load and on an annual basis.</u>
<u>Photovoltaic system</u>	<u>6</u>	<u>Generate at least 60% of daytime needs energy demand based on daytime peak load and on an annual basis.</u>
<u>Photovoltaic system with back-up battery storage</u>	<u>8</u>	<u>Generate at least 30% of daytime needs energy demand based on daytime peak load and on an annual basis and provide at least 24 hours of energy use in battery storage.</u>
<u>Photovoltaic system with back-up battery storage</u>	<u>10</u>	<u>Generate at least 60% of daytime needs energy demand based on daytime peak load and on an annual basis and provide at least 24 hours of energy use in battery storage.</u>
<u>Solar Water Heater</u>	<u>2</u>	<u>Solar water heating with at least an 80-gallon storage tank.</u>
<u>Electric Vehicle Charging Station(s)</u>	<u>2+</u>	<u>Single-family residential:</u> <ul style="list-style-type: none"> <li>• <u>2 points for installing the electric lines and circuit breakers necessary to accommodate station installation (installed according to § 8.23.E)</u></li> <li>• <u>2 points for each charging station installed in a single-family residence, not to exceed a maximum of 4 points.</u></li> </ul>

		<u>All other project types: 2 points for each station installed above the baseline number required pursuant to § 8.23.A and B.</u>
<u>Permeable surface for parking and drives</u>	<u>4</u>	<u>At least 50% of total surface of driveway and parking needs are permeable surfaces.</u>
<u>Permeable surface for parking and drives</u>	<u>2</u>	<u>At least 25% of total surface of driveway and parking needs are permeable surfaces.</u>
<u>Green roof</u>	<u>6</u>	<u>At least 50% or more of roof surface area is green roof.</u>
<u>Green roof</u>	<u>4</u>	<u>At least 25% or more of roof surface area is green roof</u>
<u>Green wall</u>	<u>4</u>	<u>Green wall must cover at least forty (40) percent of the surface of the external wall</u>
<u>White roof (also known as cool roof)</u>	<u>4</u>	<u>The entire roof surface must be covered in white/reflective covering and provide an initial and 3-year-aged, LEED standardized Solar Reflectance Index (SRI) as follows:</u> <ul style="list-style-type: none"> <li>• <u>Low-sloped roofs with a slope less than or equal to 2:12: initial SRI of 82 and 3-year aged SRI of 64</u></li> <li>• <u>Steep-sloped roofs with a slope greater than 2:12: initial SRI of 39 and 3-year aged SRI of 32</u></li> </ul>
<u>Cool pavement</u>	<u>4</u>	<u>Provide a surface with an initial solar reflectance 20%, higher than the 5-10% reflectance of a dark asphalt parking lot</u>
<u>Enhanced hurricane resistant structure</u>	<u>4</u>	<u>Meet a wind load 20 mph greater than Florida Building Code requirements</u>
<u>LID/green infrastructure (e.g., use of bioswales, rain gardens, cisterns, filtration media, etc.)</u>	<u>2</u>	<u>Demonstrate efficacy of the system and provide maintenance plan</u>
<u>SITES Certification for landscaping</u>	<u>2</u>	<u>Provide Certification</u>
<u>100% native plants in landscaping</u>	<u>2</u>	<u>Meet all landscaping requirements with 100% native vegetation</u>
<u>Energy star rating for all appliances/equipment</u>	<u>4</u>	<u>all appliances/equipment associated with the building are Energy Star rated</u>
<u>Other - Innovative Design feature</u>	<u>2+</u>	<u>Provide other design features that conserve energy, promote sustainable landscapes, support public health or increase sustainability, to be awarded at the discretion of the Village manager and reviewed on a case-by-case basis</u>
<u>Diversion of waste from landfill</u>	<u>2</u>	<u>For projects involving demolition, provide documentation that at least 30% of all demolition materials will be reclaimed, recycled or otherwise diverted from the landfill</u>

<u>Use of reclaimed/recycled materials</u>	<u>2</u>	<u>Demonstrate that at least 20% of buildings materials are reclaimed/recycled content</u>
<del>USGBC</del> <u>LEED Base Certification</u>	<del>40</del> <u>14</u>	<u>Obtain USGBC-Base LEED Certification</u>
<del>USGBC</del> <u>LEED Silver Certification</u>	<del>42</del> <u>16</u>	<u>Obtain USGBC Silver Certification</u>
<del>USGBC</del> <u>LEED Gold Certification</u>	<del>44</del> <u>18</u>	<u>Obtain USGBC Gold Certification</u>
<del>USGBC</del> <u>LEED Platinum Certification</u>	<del>46</del> <u>20</u>	<u>Obtain USGBC Platinum Certification</u>
<u>FGBC Bronze Certification</u>	<del>40</del> <u>12</u>	<u>Obtain FGBC Bronze Certification</u>
<u>FGBC Silver Certification</u>	<del>42</del> <u>14</u>	<u>Obtain FGBC Silver Certification</u>
<u>FGBC Gold Certification</u>	<del>44</del> <u>16</u>	<u>Obtain FGBC Gold Certification</u>
<u>FGBC Platinum Certification</u>	<del>46</del> <u>18</u>	<u>Obtain FGBC Platinum Certification</u>
<u>NGBS Bronze Certification</u>	<u>10</u>	<u>Obtain NGBS Bronze Certification</u>
<u>NGBS Silver Certification</u>	<u>12</u>	<u>Obtain NGBS Silver Certification</u>
<u>NGBS Gold Certification</u>	<u>14</u>	<u>Obtain NGBS Gold Certification</u>
<u>NGBS Emerald Certification</u>	<u>16</u>	<u>Obtain NGBS Emerald Certification</u>

**§ 8.22 - Submittal requirements.**

At the time of application submittal, the applicant must submit:

- A. Documentation identifying and verifying the credentials of the USGBC LEED accredited professional, FGBC Certifying agent, accredited NGBS Green Verifier, or other green building program accredited professional on the applicant's team.
- B. A checklist for each green building option, as identified in § 8.21 Green Building Development Options and Points, incorporated into the project design to achieve points.
- C. If the applicant is pursuing a certification through a recognized third-party green building certification program (USGBC LEED, FGBC, NGBS, etc.), the points checklist, designated level of certification, and proof of application into the third-party green building program must be submitted. The applicant shall use the most current version of the chosen certification program.
- D. The Village reserves the right to require a bond upon application for a project proposing a third-party green building certification to ensure completion of the project in accordance with the proposed green standards and receipt of the certification.

**§ 8.23 – Electric vehicle charging stations.**

To promote the health, safety, and general welfare of the citizens in the preparation for the increasing utilization of electric vehicles, and to ensure the Village provides the infrastructure necessary to support the transition to this technology, the following shall apply:

- A. All new Multi-family residential and Mixed-use projects shall install a minimum number of electric vehicle-charging station(s) with the project at the rate of five (5) percent of the total number of required parking spaces. If five (5) percent calculates to a fractional number, that fractional number must be rounded up to the next higher whole number.
- B. All new and substantial redevelopment of Commercial, Office, Hotel and Civic uses shall install electric vehicle-charging station(s) with the project at the rate of five (5) percent of

- the total number of required parking spaces. If five (5) percent calculates to a fractional number, that fractional number must be rounded up to the next higher whole number.
- C. An electric vehicle charging station sign shall be posted at the electric vehicle charging station stating, "Electric Vehicle Charging Station." Signs shall be no less than 24 inches wide by 18 inches high. Color and letter size specifications shall meet the Manual on Uniform Traffic Control Devices (MUTCD) requirements for sign designation (electric vehicle charging). Single-family residential stations are not required to meet the MUTCD standards.
  - D. The application documents for the project shall at a minimum identify the following:
    - 1. The location where the vehicle(s) will be parked.
    - 2. The location of the charging station(s), and
    - 3. The electrical plans showing the location of the meter, circuitry, panel schedules and routing.
  - E. Any new single-family development that elects not to install an electric vehicle charging station, or any project proposing substantial improvements to an existing single-family home, shall install the electric lines and circuit breakers to readily accommodate future installation. Lines shall be installed up to the point where the charging station will be located.

Electric vehicle charging station(s) shall be deemed permitted accessory equipment to conforming and nonconforming buildings in all zoning Districts and categories.

#### **§ 8.24 – Bicycle parking / storage.**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by provide support for alternative transportation methods.

- A. Nonresidential development shall provide a minimum of six secure bicycle parking / storage spaces for each 50,000 square feet of floor area or part thereof.
- B. Townhouse and multifamily development shall provide secure bicycle parking / storage spaces at a ratio of one space for each five residential units or fraction thereof for those units that do have an accompanying individual dedicated enclosed garage.
- C. The location of the bicycle space / storage shall be indicated on the site plan.

#### **§ 8.25 – Rooftop photovoltaic solar systems and solar water heater systems.**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of alternative energy systems and to encourage the installation of rooftop photovoltaic solar systems and/or rooftop solar water heater systems on buildings and structures within the Village.

- A. Rooftop photovoltaic solar systems and/or solar water heater systems shall be deemed permitted accessory equipment to conforming and nonconforming buildings in all zoning categories and Districts. Nothing contained in this Chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of rooftop photovoltaic solar systems or solar water heater systems that meet the requirements of this section, as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses.
- B. In order to be deemed permitted accessory equipment, rooftop solar photovoltaic or solar water heater systems may exceed the permissible height limit in any district by not more

than five (5) feet as specified in § 8.17.G. Height Exemptions. For existing buildings non-conforming to height requirements, in order to be deemed permitted accessory equipment, solar photovoltaic or solar water heater systems may exceed the existing roof height by no more than five (5) feet.

- C. Prior to the issuance of a permit, the property owner(s) must acknowledge, as part of the permit application, that:
  - 1. If the property is within a homeowners' association, condominium association, or otherwise subject to restrictive covenants, the property may be subject to additional regulations or requirements despite the issuance of a permit by the Village; and
  - 2. The issuance of a permit for a rooftop photovoltaic solar system or solar hot water system does not create in the property owner(s), or any successor or assign in title, or create in the property itself, a right to remain free of shadows or obstructions to solar energy caused by development adjoining on other property or by the growth of any trees or vegetation on other property or the right to prohibit the development on or growth of any trees or vegetation on another property.
- D. To the extent that the Village has discretion regarding the removal or relocation of trees, solar access shall be a factor taken into consideration when determining whether and where trees may be removed or relocated.
- E. Rooftop photovoltaic solar systems and solar hot water systems shall be properly maintained and be kept free from hazards, including, but not limited to, faulty wiring, loose fastenings, or being maintained in a condition that is unsafe or detrimental to public health, safety, or general welfare.

#### **§ 8.26 – Green roof.**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of green roof systems on buildings and structures within the Village. A green roof, also referred to as a living roof, shall mean a roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional components such as a root barrier, drainage and irrigation system, and soil containment.

- A. Green roof systems shall be deemed permitted accessory equipment to conforming and nonconforming buildings in all zoning categories. Nothing contained in this chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of a green roof that meets the requirements of this section, as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses.
- B. In order to be deemed permitted accessory equipment, the green roof structural components (non-vegetative components) may exceed the permissible height limit in any district by not more than five (5) feet as specified in § 8.17.G. Height Exemptions. For existing buildings non-conforming to height requirements, in order to be deemed permitted accessory equipment, green roof structural components may exceed the existing roof height by no more than five (5) feet.
- C. Prior to the issuance of a permit, the property owner(s) must acknowledge, as part of the permit application, that if the property is within a homeowners' association, condominium

- association, or otherwise subject to restrictive covenants, the property may be subject to additional regulations or requirements despite the issuance of a permit by the Village.
- D. To be deemed a green roof for the propose of achieving points for green building requirements the green roof must cover at least twenty-five (25) percent of the total roof surface.
  - E. The green roof system shall be properly maintained and be kept free from hazards or conditions that are unsafe or detrimental to public health, safety, or general welfare and shall comply with the provisions established in the landscape code under § 9.25 – Green Roof.

#### **§ 8.27 – Green wall.**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of green wall systems on buildings and structures within the Village. A green wall, also referred to as a living wall or vertical garden, shall mean an internal or external wall partially or completely covered with vegetation that includes a support structure and growing medium, and an integrated water delivery system.

- A. Green wall systems shall be deemed permitted accessory equipment to conforming and nonconforming buildings in all zoning Districts. Nothing contained in this Chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of a green wall that meets the requirements of this section, as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses.
- B. In order to be deemed permitted accessory equipment, the green wall structural components (non-vegetative components) may encroach into a side or rear yard setback by no more than (3) feet. For existing buildings non-conforming to setback requirements, in order to be deemed permitted accessory equipment, green wall structural components may encroach into any required setback by no more than three (3) feet.
- C. Prior to the issuance of a permit, the property owner(s) must acknowledge, as part of the permit application, that if the property is within a homeowners' association, condominium association, or otherwise subject to restrictive covenants, the property may be subject to additional regulations or requirements despite the issuance of a permit by the Village.
- D. To be deemed a green wall for the propose of achieving points for green building requirements the green wall must cover at least forty (40) percent of the external surface on the wall on which it is constructed.
- E. The green wall system shall be properly maintained and be kept free from hazards or conditions that are unsafe or detrimental to public health, safety, or general welfare and shall comply with the provisions established in the landscape code under § 8.27 – Green wall.

#### **§ 8.28 – Wind turbines.**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of alternative energy systems and to provide for the installation of wind turbines on rooftops or in yards within the Village. Wind turbines may be a vertical axis helical design or a pole with blades 'windmill' type horizontal axis design.

- A. Wind turbine systems shall be deemed permitted accessory equipment to conforming and nonconforming buildings in all zoning Districts. Nothing contained in this Chapter, including design standards or guidelines included or referenced herein, shall be deemed to prohibit the installation of a wind turbine system that meets the requirements of this section, as accessory equipment to conforming and nonconforming buildings, including buildings containing nonconforming uses.
- B. Due to design considerations and functionality requirements an efficient wind turbine system has a design potential to exceed the permissible height limits established in this code. In order to be deemed permitted accessory equipment, the top of the wind turbine may exceed the permissible height limit in any district by not more than ten (10) feet as specified in § 8.17.G. Height Exemptions. Should a proposed wind turbine exceed the ten (10) foot limit it will need to be approved through the variance process as established in Chapter 7, Variances.
- C. Wind turbines shall maintain the setbacks established for the zoning district in which it is placed. Wind turbines shall maintain sufficient setback to ensure if it tips over it will not fall on adjacent property.
- D. Wind turbines shall not be placed in a front-yards unless a variance in accordance with Chapter 7, Variance is granted.
- E. Wind turbines shall comply with all requirements contained within Chapter 96 - Nuisances, Noise of the Village General Regulations.
- F. Installation of a wind turbine shall require a building permit and shall comply with all requirements of the Florida Building code.
- G. A private wind turbine proposed within a public right-of-way may only be allowed upon approval by the Village Commission.
- H. Wind turbines proposed to be placed in or over water or on docking facilities will need to be approved through the variance process as established in Chapter 7, Variances.

**§ 8.29 – Green infrastructure and low impact development (LID).**

The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by removing barriers to the installation of Green Infrastructure or Low Impact Development (LID) systems for stormwater management and/or water quality protection.

- A. For projects that propose Green Infrastructure or Low Impact Development systems for stormwater management and/or water quality protection the applicant must demonstrate the proposed system meets the applicable stormwater management and/or water quality protection requirements as required by the Village, Miami-Dade County, the South Florida Water Management District or the Florida Department of Environmental Protection as applicable.
- B. The property owner shall provide the Village with the issued permit(s) from any external applicable jurisdictional agency if required for the green infrastructure or Low Impact Development system.
- C. The green infrastructure shall be maintained to ensure the efficacy of the system in managing stormwater and protecting water quality.
- D. Should green infrastructure be proposed within an easement, at the time of application the applicant shall submit, a form signed by any holder of an easement or right-of-way on the

property consenting to the installation of the green infrastructure within the easement or right-of-way, with an accompanying acknowledgement by the property owner that in the event the easement holder performs work in the easement that it is the property owner's responsibility to repair and replace the green infrastructure disturbed as a result of the work in the easement.

- E. Private green infrastructure proposed within a public right of way, may only be allowed upon approval by the Village Commission.

### **§ 8.30 – Clotheslines.**

Nothing in this code precludes a property owner from installing and maintaining a clothesline in support of energy conservation measures. Installation of a clothesline shall conform to the following:

- A. A clothesline cannot be installed in an easement without a form signed by any holder of an easement on the property consenting to the installation within the easement with an accompanying acknowledgement by the property owner that in the event the easement holder performs work in the easement that it is the property owner's responsibility to repair and replace the clothesline if disturbed as a result of the work in the easement.
- B. A clothesline cannot be installed in a right of way.
- C. A clothesline must maintain at a minimum a fifteen (15) foot setback from a waterbody.
- D. Clotheslines cannot be installed in a front yard. A clothesline cannot be installed in a side yard unless the required side yard setback can be met.
- E. Clotheslines are deemed permitted accessory equipment to conforming and nonconforming buildings in all residential zoning categories.

### **§ 8.31 –Incentives for green building.**

To promote the health, safety, and general welfare of the citizens the Village shall provide incentives for voluntary incorporation of green building options.

- A. The incentives shall apply to any development project not required by § 8.18 – *Applicability* to incorporate green building requirements.
- B. To be eligible for these incentives, an applicant must demonstrate they have achieved a minimum of eight (8) points from the development options table in § 8.20 - *Green building development options and points* to qualify for the incentive.
- C. The Village shall provide the following incentives to eligible and qualified applicants:
  - 1. Fast-track permitting for building permits.
  - 2. Reduced permitting fee, which shall, be established and amended, by Resolution of the Village Commission.

## **CHAPTER 9, GENERAL SITE DESIGN STANDARDS**

### **DIVISION 1, GENERALLY**

#### **§ 9.1 – Purpose and intent**

- A. Design guidelines are intended to implement and provide guidance on site and building design. The purpose of these guidelines is to provide direction to private property owners in preparing plans for review concerning property development or redevelopment. It is important to remember that all projects are also subject to the required reviews of North Bay Village. The primary intent of these guidelines is to establish and promote standards for development planning and urban design.
- B. The standards and guidelines provide direction as to how private development should relate to framework of public amenities in a way that will serve the long term vision as well as accommodate immediate opportunities. They have been created to allow flexibility within the parameters of a clearly defined and supported vision that will provide lasting benefit to the citizens of North Bay Village.
- C. The intent of the design standards are to utilize developed public spaces, such as streets, park and parkways, and bay-walks to organize and coordinate development, as well as to accommodate a broad mix of development types and alternate transportation, such as walking.
- D. The general requirements outlined in this chapter shall serve to supplement the minimum aesthetic and design standards for all site development, buildings, structures, alterations or additions. All site development or redevelopment shall, where reasonable and practicable, show proper design concepts consistent with the standards outlined in these guidelines. Buildings or structures, which are a part of an existing or future group of buildings, shall have a unity of character and design. The relationship of forms and the use, texture, and color of materials shall be such as to create a harmonious whole site. Harmony can be achieved through the proper consideration of scale, proportions, site planning, landscaping, materials, and color.

### **DIVISION 2, OFF-STREET PARKING AND LOADING**

#### **§ 9.2 – Purpose and intent**

It is the purpose and intent of this subchapter to establish minimum space and design requirements for off-street parking and loading facilities to accommodate both public and private uses. The ever-increasing number of vehicles generated from and attracted to residential, commercial and public activities requires that adequate parking and loading facilities, which permit safe and efficient vehicle and pedestrian movement, be provided in order to protect the health, safety and welfare of the residents of the Village.

#### **§ 9.3 – Off-street parking requirements**

- A. General requirements
  - 1. Every use or structure shall provide off-street parking facilities for the use of occupants, employees, visitors or patrons. The provision of off-street parking spaces in conjunction with all land or building uses shall be completed prior to the issuance of a certificate of occupancy and such parking facilities shall be maintained as long as the use is continued.

2. No owner or operator of any use or structure shall discontinue or cause a discontinuance or reduction in required off-street parking facilities required by the applicable code provisions existing at the time of construction, use or occupancy without establishing alternate parking facilities which meet the requirements of this subchapter.
3. When any use or structure is altered or enlarged, with a resultant increase in floor area capacity, or space occupied, whatever necessary additional off-street parking that may be required shall be provided, and a revised site plan shall be submitted for review and approval.
4. Where a use or structure which existed at the effective date of this subchapter is changed in use or occupancy to a category of use or occupancy that requires more off-street parking facilities, the increased amount of those facilities shall be provided.

B. Plan required

1. All proposed off-street parking facilities shall be subject to site plan review and approval. Whenever site plan review is otherwise required in conjunction with a specific use, that review shall satisfy the requirements of this section.
2. Site plans shall include the following:
  - a. All off-street parking facilities shall be designed with consideration given to surrounding street patterns, adjacent properties, and other neighborhood improvements. Consideration shall be given to the number of vehicles to be accommodated, hours of operation, and types of uses served.
  - b. All site plans shall show the location, size, dimensions, and design of:
    - (1) On-site buildings and structures.
    - (2) Parking spaces, loading spaces, driveways, and accessways.
    - (3) Directional markings, traffic-control devices, and signs.
    - (4) Walls, fences, pervious areas, berms, changes of grade, and planting materials.
    - (5) Number of parking spaces required and number provided, amount of landscaping required, and amount of landscaping provided.
    - (6) Any other related information that may be reasonably required by the Village.
  - c. When off-street parking facilities are located within an enclosed structure or upon the roof of a building, the site plan shall also include interior circulation patterns, slope of ramps, and location of interior structural columns.

C. Minimum number of off-street parking spaces required

1. Fractions of a space: All uses shall be subject to the following minimum space requirements unless additional spaces may be required as the condition for securing a permitted conditional use. All fractional space requirements shall be rounded off to the next highest number.
2. Residential uses
  - a. Single-family: Two spaces for each dwelling unit.
  - b. Multifamily on Treasure Island Commercially zoned lots on the north side of Kennedy Causeway:

- (1) One and one-half (1.5) space for each efficiency unit, two parking spaces for one bedroom and larger units, plus an additional ten percent of the total number of required spaces for guest parking, which shall be identified as such.
  - (2) All of the required minimum number of parking spaces pursuant to these provisions, shall be conveyed for use by the developer to the condominium association, and then made available for use by the unit owners at no charge. Where spaces are indicated by a fraction, at least the whole number must be conveyed. This provision shall apply to development under the PRD Ordinance.
- c. Multifamily in all areas except Treasure Island Commercially zoned lots on the north side of Kennedy Causeway:
- (1) One and one-half (1.5) space for each efficiency unit, two parking spaces for one and two-bedroom units, and three parking spaces for three-bedroom units or larger and two-bedroom units, which contain an enclosed den or other space convertible to a bedroom plus an additional ten percent of the total number of required spaces for guest parking, which shall be identified as such.
  - (2) All of the required minimum number of parking spaces pursuant to these provisions, shall be conveyed for use by the developer to the condominium association, and then made available for use by the unit owners at no charge. Where spaces are indicated by a fraction, at least the whole number must be conveyed. This provision shall apply to development under the PRD Ordinance.

### 3. Commercial uses

- a. Banks and financial institutions: One space for each 300 feet of gross floor area, plus sufficient area for eight stacking spaces for each drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from required off-street parking spaces and driveways.
- b. Business, vocational, and trade schools: One space for each 100 square feet of gross floor area.
- c. Lodges, fraternal organizations, and union halls: One space for each 100 square feet of gross floor area.
- d. Offices (business, professional): One space for each 300 square feet of gross floor area.
- e. Personal service establishments (dry cleaners, laundromats, gym, fitness center, and other similar uses): One space for each 200 square feet of gross floor area.
- f. Repair service establishments (shoes, watches, appliances, and other similar uses): One space for each 200 square feet of gross floor area.
- g. Restaurants, lounges, and nightclubs: One space for each 75 square feet of customer service area.
- h. Retail sales establishments: One space for each 200 square feet of gross floor area, plus sufficient area for four stacking spaces for every drive-thru window. Drive-thru lanes shall be designed so as to be totally separated from

required off-street parking spaces and driveways.

- i. Service stations: Three spaces, plus three spaces for every service bay.
  - j. Theaters/Auditoriums: One space for each three seats or other accommodations provided. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.
  - k. Vehicle sales, rental, repair, and service operations: One space for every 400 square feet of enclosed floor area for sales or rental display, plus two spaces for each service bay.
  - l. Offices (medical, dental, clinic): One space per 150 square feet of gross floor area.
  - m. Barber shops, hair salon, nail salon, spa, therapeutic massage center: Two spaces per station (chair, bed, etc).
  - n. Drugstores and pharmacies: One space for each 200 square feet of gross floor area.
  - o. Funeral home or mortuary: One space for each four seats in the principal assembly area. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking requirements.
  - p. Animal hospital, grooming, and/or kennel: One space per 300 square feet of gross floor area.
  - q. Hotels, motels, and other tourist accommodations:
    - (1) One space for each rental sleeping unit, plus an additional ten percent of the total number of required spaces except as follows:
      - 1 space per sleeping unit, for the first 100 units, and 0.5 spaces per sleeping unit for all units in excess of 100; if the developer agrees in writing that a hotel shuttle service is provided and maintained in perpetuity, and a hotel employee parking plan is provided, which shall be subject to the review by the Village Planning Department. The hotel parking plan shall include measures to address employee parking, including, but not limited to, provision of transit passes, carpool or vanpool programs, off-site parking when available and/or other measures intended to limit the impact of employee parking on surrounding neighborhoods.
    - (2) For hotel establishments with at least 100 sleeping units, parking space requirements for restaurants, retail and other service uses within the hotel may be reduced by 25% if such uses are ancillary to the hotel.
4. Community facilities
- a. Assisted living facilities: Three-quarter space per living unit.
  - b. Churches, synagogues, and other houses for worship: One space for each four seats in the principal assembly area. For benches, pews, or other similar seating arrangements, each 18 lineal inches of such seating facilities shall be counted as one seat for the purpose of computing off-street parking

requirements.

- c. Government offices and facilities: One space for every 300 square feet of gross floor area, plus one space for every four seats in any public assembly area.
- d. Hospitals: One space for each patient bed.
- e. Marinas: One space for every boat slip or berth, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.
- f. Museums, art galleries, and libraries: One space for every 400 square feet of gross floor area.
- g. Nursing home facility: One-half ( $\frac{1}{2}$ ) space for each bed.
- h. Tennis, handball, and racquetball facilities (indoor or outdoor): Five spaces for every court, plus such additional spaces as may be required for permitted uses such as retail stores and restaurants.

#### 5. Educational

- a. Nursery, Daycare, Preschool, Elementary, and Middle School: 1 space/classroom plus one space per employee (excluding teachers), plus 1 space/100 students), plus 10 spaces for stacking/queuing, (student drop-off/pick-up).
- b. High School: 1 space/classroom plus one space per 10 seats plus 5 spaces for auto stacking/queuing.
- c. College/University: 1 space /classroom plus 3 spaces/100 sq. ft. of classroom. 3 spaces/4 beds for dormitories, fraternities, and sororities.

#### 6. Uses not listed

Off-street parking requirements for those uses not enumerated but which are closely related and similar to the uses listed above shall be determined by the Planning and Zoning Board in accordance with the requirements for the listed similar use. Requirements for all nonsimilar uses shall be set by the Village Commission after a recommendation by the Planning and Zoning Board.

#### D. Exceptions to parking requirements

- 1. Off-site parking areas adjacent to or within a reasonable distance (the reasonableness of the distance to be determined by the Village Commission) from the premises on which parking areas are required by the parking regulations of this subchapter, where practical difficulties or unnecessary hardships are encountered in locating such parking area on the premises and where the purpose of these regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.
- 2. Waiver or reduction of parking requirements: To waive or reduce the parking and loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.

#### E. Design standards

- 1. Definition: For the purpose of this subchapter an "off-street parking space" is an all-weather surfaced area, at grade or above, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather

surfaced driveway which affords ingress and egress for an automobile without requiring another automobile to be moved. On single lot sites only, mechanical parking lifts, which may require another automobile to be moved, may be approved within enclosed garage structures in the PRD Overlay district, if they meet the standards of Section 8.10(D)(10)(f)(5). When developing under the PRD regulations found in Section 8.10(D)(10), mechanical parking lifts may be used to create an additional parking space which can be counted towards the total number of required parking spaces.

2. Paving and drainage:
  - a. All off-street parking facilities shall be surfaced with a minimum of a rolled six-inch rock base and one-inch durable weatherproof asphaltic pavement. The occupancy or use of a given structure or premises shall be prohibited until the required off-street parking area has been improved, inspected and approved.
  - b. All required off-street parking facilities shall be properly drained so that no nuisance will be caused to adjacent or nearby properties. All construction shall comply with design standards as established by all applicable laws, ordinances, and regulations.
3. Traffic control. Traffic control signs and pavement marking shall be used as necessary to ensure safe and efficient circulation within off-street parking areas. All traffic control measures located on private property shall be approved by the Village.
4. Parking space dimensions. Required and permitted off-street parking spaces shall be clear of columns or other obstructions and have the following minimum dimensions:

Type of Space	Length	Width
Standard	18	9
Handicapped	18	13
Compact	16	8

5. Compact parking spaces
  - a. Upon special approval by the Village Commission in accordance with the provisions on use exceptions, up to 20 percent of all required parking spaces may be designed specifically for small vehicles of the compact or foreign type, provided such spaces are clearly marked "for compact cars only" and collectively located in a defined area.
  - b. Applicants seeking approval for the use of compact parking spaces shall provide valet parking services in perpetuity; and a Business Tax Receipt for valet parking services shall be required annually to ensure compliance with this requirement.
6. Handicapped accessible parking spaces
 

All required off-street parking facilities shall be developed in accordance with all applicable provisions of the most recent version of the Florida Accessibility Code.
7. Markings
 

All off-street parking spaces shall be marked by solid stripes of at least four inches in

width along each side of the space, except those sides which permit vehicle entry or abut curbs.

8. Wheel stops

Wheel stops or continuous curbing shall be placed two feet from the front of all parking spaces, except those in a parallel configuration. Wheel stops shall be at least six feet in width and be of a design and material approved by the Village.

9. Illumination

All off-street parking facilities, except those which serve single-family residential dwellings, shall be illuminated according to the standards contained herein.

- a. For the purpose of this section, open off-street parking facilities shall include the surface of open-to-the-sky parking spaces, driveways, and accessways. Enclosed off-street parking facilities shall include multi-level parking garages and covered grade-level parking facilities.
- b. Intensity of illumination.
  - (1) Open parking facilities shall provide an average illumination intensity of one foot-candle equal to one lumen per square foot, and shall be well distributed on the pavement areas; however, at no point shall illumination be less than one-third foot-candles.
  - (2) Enclosed parking facilities shall provide an average illumination intensity of 50 foot-candles at the entrance, ten foot-candles in traffic lanes, and five foot-candles in vehicle storage areas.
  - (3) The most current edition of the IES Lighting Handbook, published by the Illumination Engineers Society, shall be used as a standard for the design and testing of parking facility lighting.
- c. All site plans shall include a parking facility illumination plan. That plan shall be certified by a registered architect or engineer as providing illumination in accordance with the applicable minimum standards set forth above. Subsequent construction must comply with that lighting plan. If there exists a question concerning whether the work was done in accordance with specifications, the Village may require as a prerequisite to the issuance of a certificate of occupancy that the architect or engineer who prepared the plans certify that all work was done in accordance with specifications.
- d. All required illumination shall be controlled by automatic devices.
  - (1) For commercial uses with open or enclosed parking facilities, the required illumination shall be provided at least 30 minutes after the closing time of any establishment served by the parking facility.
  - (2) Any parking facility that serves a multifamily residential use must maintain the minimum levels of illumination established by this subchapter through the use of natural or artificial light 24 hours per day.
- e. All lighting shall be shaded or screened and positioned in such a manner as to minimize offensiveness to any neighboring property.
- f. All property owners and lessees shall be responsible for the replacement or

repair of any light that becomes nonfunctional and reduces the illumination below the required standard.

- g. All additional regulations, standards, and requirements stated in section 151.26 of the Village Code shall be complied with.

#### 10. Landscaping

All parking areas shall be properly landscaped according to the provisions of the current Dade County landscaping ordinance.

#### 11. Right-of-way setback

A minimum setback of 20 feet shall be required between a public street right-of-way line, exclusive of alleys, and the entrance to the nearest parking space.

#### 12. Maintenance

- a. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.
- b. The surface shall be maintained in a structurally sound condition and free of potholes. A pothole is defined as crack, hole, aperture or opening in the surface which penetrates beneath the asphalt layer to any depth and is of any diameter.

#### 13. Separation from walkways and streets

Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by an approved wall, fence, curbing, or other protective device.

#### 14. Entrances and exits

Location and design of entrances and exits shall be in accordance with the requirements of the Village, based upon reasonable requirements for safety traffic regulations and standards. Landscaping, curbing, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.

#### 15. Interior drives

Interior drives shall be of adequate width to serve a particular design arrangement of parking spaces, as prescribed by the Village.

#### 16. Back-out parking prohibited

All off-street parking spaces, except those relating to single-family residential dwellings, shall be designed so that no vehicle shall be required to back into a public street right-of-way to obtain egress.

#### 17. Minimum aisle widths

- a. Parallel parking maneuvering areas shall be at least
  - (1) 13 feet wide for one-way
  - (2) 23 feet wide for two-way
- b. 90 degree parking maneuvering areas shall be at least
  - (1) 23 feet wide for one-way

- (2) 23 feet wide for two way
- c. 30 degree parking maneuvering areas shall be at least
  - (1) 11 feet wide for one-way
  - (2) 23 feet wide for two way
- d. 45 degree parking maneuvering areas shall be at least
  - (1) 13 feet wide for one-way
  - (2) 23 feet wide for two way
- e. 60 degree parking maneuvering areas shall be at least
  - (1) 18 feet wide for one-way
  - (2) 23 feet wide for two way
- f. Accessway aisles shall be at least
  - (1) 13 feet wide for one-way
  - (2) 23 feet wide for two way

18. Additional design criteria

Minimum off-street parking and loading requirements shall conform to the Village Code relating to parking and loading requirements. Except for one-way drives and access ramps on single lot sites developed under in the PRD standards in Section 8.10(D)(10), the following criteria shall also be considered:

- a. Pedestrian circulation facilities, roadways, driveways, and off-street parking and loading areas shall be designed to be safe and convenient.
- b. Parking and loading areas, aisles, pedestrian walks, landscaping, and open space shall be designed as integral parts of an overall development plan and shall be properly related to existing and proposed buildings.
- c. Buildings, parking and loading areas, landscaping, and open spaces shall be designed so that pedestrians moving from parking areas to buildings and between buildings are not unreasonably exposed to vehicular traffic.
- d. Landscaped, paved and gradually inclined or flat pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas, and adjacent buildings. Pedestrian walks should be designed to discourage incursions into landscaped areas except at designate crossings.
- e. Except for single-family and two-family residences, each off-street parking space shall open directly onto an aisle or driveway that is not a public street.
- f. Aisles and driveways shall not be used for parking vehicles, (except that the driveway of a single-family or two-family residence shall be counted as a parking space for the dwelling unit) or as a number of parking spaces as determined by the-Planning and Zoning Official, based on the size and accessibility of the driveway.
- g. The design shall be based on a definite logical system of drive lanes to serve the parking and loading spaces.

- h. Parking spaces for all uses, except single-family and two-family residences, shall be designed to permit entry and exit without moving any other motor vehicle.
- i. No parking space shall be located as to block access by emergency vehicles
- j. Compact car spaces should be located no more and no less conveniently than full-size car spaces and shall be grouped in identifiable clusters.
- k. Parking lots and other vehicular use areas are to be designed to be functional and aesthetically enhance neighborhood building, group of buildings, or facility they serve.
- l. Off-street loading areas shall be located where they will not disturb adjacent uses and should not be the visual focal point of a driveway, parking area, adjacent properties, or the right-of-way. This may be accomplished by providing any or a combination of the following: Masonry wall extensions of the building line, opaque landscape screening, berming, and through selective placement or orientation of the loading area.
- m. Developments which include out-parcels shall be designed to provide safe and efficient vehicular and pedestrian circulation within the out-parcel, between the out-parcel and the principle development and off-site. All pedestrian connections should be well marked and lighted.
- n. Sites requiring large areas of surface parking should attempt to distribute parking into smaller areas broken up by intervening areas of landscaping, open space and buildings where ever possible rather than aggregating parking into continuous street facing strips.
- o. Parking areas must provide adequate drainage.
- p. With the exception of temporary parking lots, the landscaped areas of an at-grade parking lot should be defined with a six-inch curb.
- q. Parking garages and structures shall contain commercial use on the ground floor and architectural detailing so not to appear as a garage on elevations facing the street.
- r. Multiple levels of parking structures should be parallel to grade on waterfront elevations.
- s. Stairways and elevators should be glass enclosed or open clearly visible to the street or other populated areas to prevent vandalism.
- t. Ramps, stairwells and any other portion of the garage should be buffered with the use of decorative grilles and screens.

#### F. Joint use of required off-street parking spaces

##### 1. Location of spaces

All parking spaces required herein shall be located on the same parcel with the building or use served, except that where an increase in the number of spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the use being served.

##### 2. Joint use for theaters, auditoriums, nightclubs, and churches

Up to 50 percent of the parking spaces required for theaters, auditoriums and nightclubs, and up to 100 percent of the parking spaces required for churches may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as theaters, auditoriums, nightclubs or churches; however, a written agreement thereto shall be properly executed and filed as specified below.

3. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, approved as to form by the Village Attorney, shall be filed and recorded in the public records of Dade County, Florida.

G. Mechanical parking lifts with valet parking serving legal nonconforming residential development in the RM-70 District. Notwithstanding the above, mechanical parking lifts may be permitted to serve development in the RM-70 district, existing as of January 1, 2017, which is nonconforming to the minimum number of parking space requirements. The lifts serving the development may be located on sites in the RM-70 or RM-40 districts, subject to the distance requirements of this code. A mechanical parking lift is an automated mechanism that lifts vehicles to make space available to park other vehicles below it in a vertical tandem fashion. Parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces. Access to both standard and mechanical parking may be provided through the use of vehicle elevators. Mechanical parking may be permitted if it meets the following standards:

1. Mechanical lifts shall be permitted only when operated by an attendant or a licensed and insured valet parking company on a 24-hour/seven-days-a-week basis, to be confirmed by restrictive covenant to be recorded by the owner/applicant prior to establishment of the use. Proof of the valet service contract must be provided to the Village annually. Between the hours of 5:00 am to 1:00 am, a minimum of two valet parking attendants shall be on duty for each parking lot which utilizes mechanical parking lifts. Between the hours of 1:00 am to 5:00 am, a minimum of one valet parking attendant shall be on duty for each parking lot which utilizes mechanical parking lifts.
2. Mechanical lifts must be shielded from view from adjacent properties, either by enclosing the parking with a decorative fence or wall or enclosing the parking in a garage structure. If a decorative fence or wall is employed, it may be located on the perimeter of the property and may exceed the height limits of Section 8.13.F.2 in order to hide the parking lifts from view, to a maximum of 14 feet. Decorative fencing material may not include wood, chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, or any vinyl clad fencing.
3. The mechanical parking lifts, decorative fencing, and any garage structure shall be designed so that the noise or vibration from the operation of the lifts or car elevators shall not be plainly audible to, or felt by, any individual standing outside on property adjacent to the garage structure. Noise and vibration barriers shall be utilized to ensure that surrounding walls or fencing decrease sound and vibration emissions.
4. All mechanical parking lifts and/or car elevators providing access to levels within a garage must be maintained and kept in good working order and must be inspected by a licensed mechanical engineer at least once annually.
5. All free-standing mechanical parking lifts must be designed so that power is required

to lift the car, but that no power is required to lower the car, in order to ensure that the lift can be lowered and the top vehicle can be accessed in the event of a power outage.

6. Any building utilizing car elevators to access parking must include an emergency electric generator consistent with the requirements of Section 151.25 of the Village Code, regardless of the height of the building.
7. All mechanical lifts must be designed to prevent lowering of the lift when a vehicle is parked or objects are located below the lift.
8. All mechanical lift components, car elevators, and emergency generators shall be Underwriters Laboratories (UL) approved.
9. All non-mechanical parking spaces in a garage structure must measure at least nine feet in width by 18 feet in depth.
10. The building owner or condominium association must maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of the lifts and car elevator(s). Proof of the service contract must be provided to the Village annually.
11. The ceiling heights of any garage parking level with parking lifts within a garage shall be a minimum of 11 feet six inches.
12. The parking lift platform must be sealed and of a sufficient width and length to completely cover the bottom of the vehicle on the platform to prevent dripping liquids or debris onto the vehicle below.
13. Either the owner or lessee of a parking lot which utilizes mechanical parking lifts shall carry liability insurance which covers any damage, injury, or accident that could occur within the parking lot.
14. The condominium association shall not lease or sell parking spaces and shall not charge for guest parking.

H. Mechanical parking lifts in the CG District.

Notwithstanding any provision of this Code to the contrary, mechanical parking lifts are permitted in an enclosed garage structure to serve development in the CG district, subject to the standards in Section 9.3.G.1 through 14. Parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces, provided that a restrictive covenant in a form acceptable to the Village Attorney is executed and recorded prior to the issuance of a Certificate of Occupancy requiring that the parking lifts be operated by a licensed and insured valet parking company.

I. Structured Parking Facilities. All new structured parking facilities shall be constructed to be adaptable for re-use in the future for residential, non-residential or mixed-use development. Construction shall consider factors such as:

1. Flat floor plates;
2. Adequate floor heights;
3. Column placement;
4. Additional load potentials; and
5. Provisions for utilities, stairwells or other life safety needs.

## § 9.4 – Off-street loading and unloading requirements

### A. General requirements

#### 1. Off-street loading facilities required

At the time of the erection of any multifamily residential or nonresidential use or at the time any such use is altered, enlarged, or increased in capacity by adding dwelling units or floor area, there shall be space provided and maintained for the loading and unloading of materials, goods, or supplies, and for delivery and shipping so that vehicles for these services may use this space without encroaching on or interfering with the public use of streets, parking facilities, and alleys by pedestrians and other vehicles.

#### 2. Continued provision of required loading facilities

No owner or operator of any such structure or use shall discontinue, dispense with, or cause a discontinuance or reduction in required loading facilities required herein and existing at the time of construction, use, or occupancy without establishing alternate loading facilities which meet the requirements of this subchapter.

#### 3. Modernization, alteration, conversion, or enlargement of structure or use

When any such structure or use is modernized, altered, converted, or enlarged with a resultant increase in floor area, additional off-street loading spaces that may be required shall be provided, and a revised site plan shall be submitted for review and approval.

#### 4. Restrictions

No areas supplied to meet required off-street parking facilities shall be utilized for or deemed to meet the requirements for off-street loading facilities.

### B. Number of loading spaces required

#### 1. Retail, personal service, restaurant or wholesale operation

Gross Floor Area (sq ft)	Spaces Required
Under 10,000	0
10,000-20,000	1
20,000-40,000	2
40,000-60,000	3
Over 60,000	4

#### 2. Multifamily residential, hotel/motel, office, hospital, spa, place of public assembly or similar use

Gross Floor Area (sq ft)	Spaces Required
Under 25,000	0
25,000-50,000	1
50,000-100,000	2
Over 100,000	3

### C. Design standards

#### 1. Space Dimensions

An off-street loading space shall include an area of at least 12-feet wide by 30-feet long with 14½ feet vertical clearance. Each off-street loading space shall be easily accessible and arranged for convenient and safe ingress and egress by motor truck or trailer combination.

#### 2. Paving and drainage

Proposed grading and drainage for off-street loading facilities shall be approved by the Village. All loading areas shall be surfaced with a minimum of a rolled six-inch rock base and a one-inch durable weatherproof asphaltic pavement. Loading areas shall be maintained in a manner so as to not create a hazard or nuisance.

### D. Joint usage

Combined or joint off-street loading spaces for two or more uses may be collectively provided if off-street loading facilities are equal in size and capacity to the combined requirements of the several uses and are so located and arranged as to be usable by all.

## **DIVISION 3, LIMITATIONS OF THE USE OF ON-STREET AND OFF-STREET PARKING AREAS**

### **§ 9.5 – In residential zoning districts**

#### A. Storage, sales or repair of merchandise or vehicles; display of signs or advertising devices; and storage or parking of commercial vehicles prohibited

The storage, sale or repair of merchandise or vehicles or the display of signs or advertising devices on vehicles, structures or land, and the storage and parking of commercial vehicles as defined in subparagraph (2)(a), shall not be permitted in any off-street residential parking areas. This provision shall not prohibit persons from parking vehicles in such areas that contain information that is required by any applicable laws, ordinances or regulations, if such information is provided only to the extent and in the manner required by such laws, ordinances or regulations, nor shall it prohibit the storage or parking of such commercial vehicles in such areas when such vehicles are owned or controlled by a resident of the appurtenant building and where such vehicles nor any part of them are not visible from the public right-of-way.

#### B. Limits on duration and time of parking of commercial vehicles

Except as herein provided, in any residential district, it shall be unlawful to park any commercial vehicle for a period of time in excess of two hours between 7:00 a.m. and 6:00 p.m. or at any time between 6:00 p.m. and 7:00 a.m.

The term "commercial vehicle," as herein used, shall mean a motor vehicle of one-ton capacity or more or a motor vehicle or trailer of any size or capacity which is used in commerce. A motor vehicle shall be conclusively presumed to be used in commerce if the vehicle bears a sign, insignia, trademark, tradename or business designation of any nature, wherever the same may be located on the vehicle; or the vehicle is used for the

transportation of persons or property for compensation. A motor vehicle will be presumed to be used in commerce if, upon visual inspection, it contains equipment and other personal property regularly, normally and ordinarily used in commerce business or trade, such as, for example, construction tools and equipment, commercial lawn mowers, tractors, ladders, paint, auto mechanics' tools, such as hydraulic jacks, tire changing equipment and towing equipment. Such presumption shall be subject to rebuttal by competent evidence.

C. Exceptions to Section 9.5B

The fact that a motor vehicle used in commerce as above-described is designed for private use or is only used commercially on a part-time basis shall not abrogate or reduce the presumption of use in commerce. Provided, however, that the placement of a temporary (magnetic or otherwise) cover over the sign, insignia, trademark, trade name or business designation shall cause the vehicle to be in compliance.

The foregoing prohibition shall not apply to vehicles used by licensed contractors or service establishments actually doing work on the premises reasonably proximate to the location where parked, nor to vehicles of less than one ton capacity containing federal, state or local government insignia.

**§ 9.6 – In all zoning districts**

A. Limitations on parking truck tractors, semitrailers, tandem trailer trucks and special mobile equipment

No truck tractor, semitrailer, tandem trailer truck or special mobile equipment as hereafter defined shall be parked or permitted on any parcel of land in any district zoned Parks or General Commercial ("GC") except for purposes of loading or unloading and except as provided elsewhere in this ULDC.

B. Definitions

The following terms shall have the following respective meanings:

1. Truck tractor. Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed to carry a load other than a part of the weight of the vehicle and load so drawn.
2. Semitrailer. Any vehicle with or without motive power other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its rests upon or is carried by another vehicle.
3. Tandem trailer truck. Any combination of a truck tractor, semitrailer and trailer coupled together so as to operate as a complete unit.
4. Special mobile equipment. Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging apparatus, well boring apparatus and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels or other vehicles designed for

the transportation of persons or property to which machinery has been attached.

C. Violations

Any person who parks, or permits parking of a truck tractor, semitrailer, tandem trailer truck or special mobile equipment in violation of this section shall be guilty of a civil infraction and subject to the procedures and penalties prescribed in Chapter 153.

**DIVISION 4, LANDSCAPING (Refer to Ch. 18A, Miami-Dade Landscaping Code)**

**§ 9.7 – Landscaping guidelines**

- A. Landscaping should complement the old Florida/Maritime theme, using native plant materials and street furnishings that carry the theme, and provide continuity throughout the district. In addition, public safety will be a priority using the principles of CPTED (crime prevention through environmental design) to create high visibility areas and natural access control.
- B. With regards to landscape design for both new construction and existing buildings, the following should apply:
1. Landscaping should complement and enhance the overall architectural and design theme of the property, but not overpower it.
  2. Rhythm should be maintained along public streets through the uniform placement of trees.
  3. Blank walls greater than 25 feet in length and other unattractive areas of a site or building should be heavily screened with landscaping. Rooflines or storefronts of 25 feet or greater shall be broken by vertical landscaping materials. Shade and accent trees planted at 20-foot intervals shall be required to achieve this screening.
  4. Large parking areas and driveways shall be heavily landscaped along the perimeter and with interior and terminal islands.
  5. Landscape design should utilize the CPTED principles of natural surveillance, natural access control and territorial reinforcement.
  6. The use of native trees, shrubs and ground covers is encouraged to be incorporated into the landscaping around proposed developments. Local flora will be maintained as part of the built environment and the demand on our local water resources will be minimized.
  7. The placement and design of landscaping shall maximize visibility to provide natural surveillance.
  8. Landscape design shall incorporate with design of other physical features, such as sidewalk, pavements, lighting and fences; to emphasize public entrances, define and reinforce ownership of property.
  9. Tree and palm heights and spread shall allow sufficient visibility, not completely block views of/from doors, windows, and streets.
  10. Shrubs and ground cover shall be planted along public rights-of-way or around parking, and public open areas.
  11. Landscape design will utilize principles of xeriscape landscaping, while retaining the tropical beach resort atmosphere.
  12. Landscape plans must be drawn, signed and sealed by a Florida registered architect or

landscape architect.

13. In addition to the design standards, all landscaping shall meet the standards of the Miami-Dade Landscape Code (Ch. 18A).

14. Landscaping in 15-foot line of site triangle at intersections of rights-of-way and at driveways shall conform to height clearances of bushes and trees, and maximum tree calipers in accordance with the Village Code.

C. Ornamental trees or palms should be placed in front of buildings in such a manner as to provide visual transparency. Shade trees and palms shall be used adjacent to open spaces, parking lots, and residential streets. Planting areas shall be designed with multi-layers of plant material including shrubs and ground covers.

D. The owner, tenant and their agents, if any, shall be jointly and severally responsible for the maintenance and protection of all landscaping existing or hereafter installed, which shall be maintained in a healthy growing condition and shall be kept free from refuse and debris. Maintenance shall include watering, weeding, mowing, fertilization, treating, mulching, pruning, removal/replacement of dead or diseased trees and removal of refuse and debris on a regular basis so as to present a neat and well-kept appearance at all times.

### § 9.8 – Landscaping and open space in commercial districts

Trees improve air quality, reduce storm water runoff, provide cooling effects for the urban heat island, increase property values, and create urban wildlife habitat. They can greatly increase the quality of life in a community. For the purposes of developing a consistent landscape theme within the Village, designated street trees and recommended landscape technique are provided in this section.

A. Trees shall be provided along streets.

B. Provide a minimum of five-foot by five-foot by three and one-half-foot deep tree wells in existing or new sidewalks, provided there is a minimum 36-inch clear area in front of the tree to permit passing in compliance with ADA requirements. Trees may also be located in islands created in the parking zone.

C. Consider the use of continuous street tree trenches to provide maximum soil area for roots to spread, and water and air to penetrate.

D. Allow sufficient room for tree canopies to grow and develop without conflict to other building elements and overhead utilities.

E. Install irrigation systems to provide adequate water to establish and maintain trees.

F. In high pedestrian areas, install tree guards to protect the trunks from damage.

G. Select trees that are adapted to the harsh conditions of a dense urban environment.

H. Trees shall not be placed near overhead utility lines and shall conform to FPL requirements in terms of clearance and recommended tree species.

### § 9.9 – Plant categories

Proposed landscape plans for development or redevelopment shall incorporate the following information into the plant list and summary:

Salt Tolerance	
High	Plants are highly resistant to salt drift and can be used in exposed environments.

Moderate	Plants tolerate some salt spray, but grow best when protected by buildings, fences, or plantings of salt tolerant species.
Low	Plants have poor salt tolerance and always should be used well back of exposed areas and be protected by buildings, fences, or more salt tolerant species.
None	Plants have extremely low to no salt tolerance and should not be used near exposed areas even if protected.
<b>Light Requirements:</b>	
FS	Full Sun; these conditions are generally required for maximum growth and flowering and are met in southern locations in the landscape.
FS-PS	Full Sun - Partial Shade; plants within this category are adaptable to a range of light conditions. Full sun should be provided, but filtered sun through overhead canopy trees is adequate. Eastern, western and southern locations provide these conditions.
FS-DS	Full Sun - Dense Shade; plants that are quite adaptable to varied light conditions and will grow well in any location in the landscape.
PS-DS	Partial Shade - Dense Shade; plants that require shaded conditions for best growth. These conditions are provided under overhead canopy trees and in northern locations of the landscape.
<b>Foliage</b>	
E	Evergreen
D	Deciduous
SEV	Semi-Evergreen

**§ 9.10 – Tree removal and relocation**

- A. Before the Village issues a tree removal permit that allows the replacement of any tree, the applicant must demonstrate that relocation is not a viable alternative. Relocation shall occur either within the site or off-site with the concurrence of the Village where the site is public property. If any tree is to be relocated either on-site or off-site, a relocation plan shall be submitted in accordance with chapter 100 of the Village Code.
- B. Methods for relocation. The following guidelines shall be utilized to ensure successful transplanting of trees:
  - 1. Any tree being relocated shall not be unnecessarily damaged during removal, transport or replanting of that tree.
  - 2. If the trees have a dormant period, they should be transplanted during that time. Trees should not be transplanted during periods of strong, dry winter winds or during droughts.
  - 3. Provide adequate space for root and crown development.
  - 4. Trees shall be root and canopy pruned according to sound arboricultural standards prior to transplanting.

5. During and following transplanting, the root ball and trunk shall be protected. The root ball must be kept moist at all times.

## **DIVISION 5, DESIGN STANDARDS FOR COASTAL SITES**

### **§ 9.11 – Dade County Shoreline Development Review**

- A. All development directly abutting North Bay Village's shoreline, except single-family and duplex development, is subject to the requirements of the Miami-Dade County Shoreline Development Review (Ordinance 85-14) which includes standards for setbacks and visual corridors.
- B. An applicant requesting development within the shoreline development review boundary shall obtain approval from the Miami-Dade County Shoreline Development Review Committee, prior to issuance of a building permit by North Bay Village.
- C. Applications for shoreline development review are obtained from and submitted to the Miami-Dade County Development Impact Committee Department by the applicant. Prior to applying for shoreline development review, approval for construction or structural alteration of any dock, pier, piling, seawall, or any similar structure in or over the waters in the corporate limits of the Village, Village Commission approval shall be required. Prior to applying for shoreline development review for construction of any marina, approval from both the planning and zoning board and Village Commission shall be required.

### **§ 9.12 – Coastal Construction within Biscayne Bay (North Bay Village Approval)**

#### **A. Definitions**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be in addition to the definitions contained in Section 327.02, Florida Statutes.

*Dock.* Any fixed or floating structure for securing boats, loading or unloading persons or property, or providing access to the water, and includes the term "pier," "wharf," "float" or any other landing facility.

*Docking site.* Any "slip," "berth," or space to accommodate a single boat, vessel, or houseboat.

*Dolphin or mooring.* Any appliance used to secure a boat or other vessel, other than to a pier, which is not carried aboard the boat or vessel as regular equipment when underway.

*Houseboat or floating home.* Any vessel in fact used or designed primarily to be occupied as living quarters and for any business or occupation whatsoever, or for any private or social club of whatsoever nature, including the use thereof for the entertainment or recreation of guests or tenants while same is moored or docked within the corporate limits of the Village, whether the vessel is self-propelled or not.

*Marina.* Any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, vessels, or houseboats on land or in water, or to be used for living quarters either permanently or on a temporary basis.

*Riparian right-of-way.* The water immediately adjacent to any real property located within the Village limits.

*Utility hook-up.* Any connection between the waterfront property or docks and piers appurtenant thereto located within the riparian right-of-way and any boat, vessel, or houseboat provided to conduct water, electricity, cable, telephone service, gas, or other utility or sewerage to or from the boat, vessel, or houseboat.

*Village Manager.* For purposes of this chapter, "Village Manager" means the Village Manager or authorized designee.

*Waters of the Village.* All waters within the corporate limits of North Bay Village, whether immediately tangent to one of the islands or a part of Biscayne Bay.

## B. Construction and Structural Alteration

1. No person, firm, or corporation shall construct any docks, piers, dolphins, wharfs, pilings, boat lifts, or similar structures of any kind more than 50 feet perpendicular from the seawall or shoreline (not including rip-rap) into any waterway within the corporate limits of the Village, except as provided in subsection 9.12(B)(5) below.
2. No dock, pier, wharf, dolphin, piling, boat lift, or similar structure shall be erected in the Village unless the structure is set back at least 7½ feet from the lot line on each side.
3. No person, firm, or corporation shall build, repair, reconstruct, extend, or make any structural alteration on any building, dock, pier, dolphin, wharf, piling, boat lift, bulkhead, seawall, or similar structure within the corporate limits of the Village, or do any filling, excavating, or dredging in the waters without first obtaining a building permit to do so from the Village Building Department.
4. Application for any permit or the transfer of any permit required by this section shall be made to the Village Building Department in writing on forms provided therefore. The permit shall constitute an agreement by the applicant to comply with all conditions imposed upon granting of the permit. The application shall be accompanied by plans and specifications setting forth in detail the work to be done.
5. Boat lifts and mooring piles may be constructed at existing docks beyond 50 feet from the seawall or shoreline provided:
  - a. All proposed structures are limited to boat lifts and/or mooring piles which are not proposed to extend farther from the seawall than existing dock structures.
  - b. All proposed structures will not allow a lifted or moored boat to extend farther from the seawall than is possible using the existing dock structures.
6. A safety light shall be placed on the part of the structure (either dock, mooring pile, or boat lift) which is furthest from the seawall. The light shall be illuminated from one half hour prior to sunset to one half hour after sunrise.
7. Any existing docks, piers, dolphins, wharfs, pilings, boat lifts, or similar structures may be repaired or reconstructed in their same footprint, regardless of the dimensional restrictions of this chapter.

## C. Seawall Maintenance and Enforcement

1. It shall be unlawful for any person or entity owning real property abutting the waterways to allow the seawall to be or remain in a state of disrepair.
2. Upon learning that any seawall is in a defective or dangerous condition or is in a state of disrepair, the Village Manager shall so notify the property owner or other

- person(s) having charge of the seawall to immediately repair the seawalls in whatever manner necessary to ensure it meets all applicable regulations governing the same. If such person(s) or entity fail(s) or neglect(s) to make such repairs, the Village Manager shall take whatever action is necessary for the protection of the public, including the hiring of contractors to repair the seawall; charging the cost of such repairs to the property owner or other person(s) having charge of the property; and it shall be a violation of this chapter for any person to interfere with such actions.
3. If any seawall, or any portion thereof, or any material from such seawall, shall fall into the waters of North Bay Village, it shall be the duty of the owner or other person(s) or entity having charge of the property, to forthwith remove the same from the waters of the Village. If they shall fail to do so, the Village Manager may do so or hire the appropriate individual or entity to do so; and the cost thereof shall be recovered from the property owner or other person(s) or entity having charge of the seawall as provided in this chapter.
  4. All costs for services, charges, work or fines incurred by North Bay Village in connection with its action to ensure the protection of the public through repair of any seawall or as a result of violations of this chapter shall constitute and are hereby imposed as liens against the real property aforesaid and, until fully paid and discharged, shall be imposed as special assessment liens against the subject real property. Such liens shall remain equal in rank and dignity with the lien of ad valorem taxes and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. The maximum rate of interest allowable by law shall accrue to such costs for services, charges, work or fines incurred by North Bay Village. Unpaid costs for services, charges, work or fines incurred by North Bay Village, together with all penalties imposed thereon, shall remain and shall constitute liens against the real property involved. Such liens for costs for services, charges, work or fines incurred by North Bay Village shall be enforced by any of the methods provided in North Bay Village Code of Ordinances; or in the alternative foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in state law, or may be foreclosed per Chapter 173, Florida Statutes or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The property owner and/or operator shall pay all costs of collection of fees, including attorney fees and court costs, service charges, penalties and liens imposed by virtue of this chapter.

#### D. Operation of docks in single family zoning districts

1. No person, firm, or corporation shall be permitted to lease or use any boat, vessel, or houseboat for living quarters, or to otherwise occupy same, on a permanent basis in any area of the Village zoned RS-1, and RS-2. Owners of private docks in those zoned areas will be permitted "utility hook-ups" to one boat from any dock which may be erected upon the riparian right-of-way abutting their property.
2. The renting of such docks or dock bases, moorings, dolphins or seawalls, and the rental of boats or any portion thereof, for any purpose whatsoever, shall be specifically prohibited in areas of the Village zoned RS-1 and RS-2 and, further, residing on boats within the Village limits is prohibited, except where the docks constitute a part of a marina, a yacht club, hotel, or motel.
3. No docks, dockheads, moorings, dolphins, seawalls or other docking facility shall be used for the docking or storage of any vessel, barge or similar boat used for

transport or storage of goods, materials, or debris of any kind unless such vessel, barge or boat has a Boat Mooring Permit pursuant to Section 150.16(A) and such goods and materials: 1) are being utilized for construction on the adjacent upland property, or 2) are being loaded or unloaded to the adjacent upland property.

#### E. Application procedure for Marinas

All marina plans shall be approved by the U.S. Corps of Engineers, state internal improvement board, Village Engineer, building official, Village Manager, the planning and zoning board, and Dade County DERM, prior to being submitted to the Village Commission for its approval. Marina is defined as any area within the Village where one or more sites or locations are rented or offered for rent for the location or dockage of boats, or vessels, or houseboats on land or on water. There are two classifications for marinas:

1. Ancillary. A secondary operation to the primary function of a hotel, apartment, condominium, or club which permits the use of the facilities exclusively to the tenants residents, or guests of the hotel or club
2. Business. Any marina not included in the foregoing definition of "ancillary."

#### F. Design guidelines for Marinas

1. Each space intended for a vessel must be provided with an anti-backflow valve, a sewer connection and proper equipment to reach the Village sewer line, and a permanent supply of electricity.
2. Each boat berth or docking site must provide one automobile parking space.
3. Before any license shall be issued or renewed for any line or pipe carrying inflammable fuel or other fluid, the Village Engineer must examine and approve the facilities.

#### G. Coastal Construction Variances

1. Purpose and intent. The purpose and intent of this section is to provide relief and flexibility from the strict enforcement of the provisions of Section 9.12.
2. Procedure for consideration of a coastal construction variance.
  - a. The Planning and Zoning Board shall hold a public hearing to consider a request for a coastal construction variance and shall recommend to the Village Commission, approval, approval with conditions, or denial of the variance. The Board shall consider the criteria of Section 9.12(G)(3) in their decision making.
  - b. Following a recommendation from the Planning and Zoning Board, the Village Commission shall have the power, after a public hearing, to vary or adopt the strict application of the requirements of Section 9.12, and to prescribe appropriate conditions and safeguards associated with the granting of a coastal construction variance. The Commission shall consider the criteria of Section 9.12(G)(3) in their decision making.
3. Coastal construction variance review criteria. Coastal variances shall be reviewed based on the following criteria:
  - a. Whether or not the variance will be in harmony with the general appearance and character of the community

- b. Whether or not the variance will be injurious to the area involved or otherwise detrimental to the public welfare
  - c. Whether or not the improvement is designed and arranged on the site in a manner that minimizes aerial and visual impact on the adjacent residences
  - d. Whether or not the Applicant has provided to the Village letter(s) of consent from adjoining riparian property owners
  - e. Whether or not the Village has received any letter(s) of objection from adjoining riparian property owners
  - f. Any other factors relevant to the specific site
4. Expiration of coastal construction variance. After the Village Commission has granted a variance, the variance so approved or granted shall expire after two years, measured from the date of final Commission action, if no substantial construction or change of use has taken place in accordance with the plans for which the variance was granted.
  5. Reapplication for a coastal construction variance. No application for a variance shall be filed less than one year after the date of denial by the Village Commission of an application for a variance involving the property, riparian area, or any portion thereof.

## **DIVISION 6, OTHER DESIGN GUIDELINES**

### **§ 9.13 – Building and site design relationships shall conform to the following standards.**

- A. Buildings or structures located along strips of land or on single sites and not part of a unified multi-building complex shall strive to achieve visual harmony with the surroundings.
- B. Retail or office establishments, which are located on corners, are recommended to place windows on each wall that faces a street, parking area or driveways.
- C. In the case of buildings with multiple storefronts and shopping centers with out-parcel development, facade treatment shall be coordinated. Such facade treatments include: building colors, windows, storefronts, signage and awnings.
- D. All vending machines, any facility dispensing merchandise, or a service on private property shall be confined to a space built into the building or buildings, or enclosed in a separate structure compatible with the main building.
- E. When garage structures are provided, such shall be designed to incorporate a decorative grid treatment into the structure's facade at ground level.
- F. Storefronts shall have easily identifiable entrances.
- G. Window displays shall be done in such a manner as to capture the pedestrian's attention, establishing a positive and professional image for the business, and informing the potential customers of the merchandise.
- H. "Take out" or "pick up" windows for retail or other establishments shall not be located on a building facade that faces a public right-of-way, unless they are designed in such a manner as to be an aesthetic asset to the building and neighborhood.
- I. Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grills and shall be painted in muted colors or match the building and shall not be

visible from the street.

- J. All service bays, mechanical (HVAC) equipment and delivery areas shall be located away from and not visible from the streets, waterways, sidewalks and adjacent properties.
- K. Service bays, ground-mounted air conditioning units and other mechanical equipment shall be buffered and completely screened from public and on-site pedestrian view.
- L. Exterior service bays and delivery areas shall not be used for the storage of vehicles or materials.
- M. The sale, dismantling or servicing of any vehicles, equipment, materials, or supplies shall not take place within the service area or delivery area.
- N. Driveways and loading spaces associated with exterior service bays shall be so that vehicles using the space do not hinder the use of traffic lanes, streets, or adjacent properties.
- O. Pre-fabricated homes are prohibited in new construction.
- P. Fences shall be made of wrought iron or aluminum bars with intermittent posts. Masonry walls are also permitted, with 40 percent of the wall opaque. Chain link fences and privacy wood fences are prohibited along the Corridors. Sharp projections, barbed wire or other hazardous materials are not permitted as any part of a fence or wall. Wrought iron and aluminum bar fences shall be either black, white or match the color of the building. Masonry walls shall match the building color or reflect Florida coastal themes. Color shall be muted tones.
- Q. Temporary construction shall be enclosed by black vinyl coated chain-link fences. Construction walls/fences are encouraged to contain art work and graphics. Commercial advertisements are prohibited.
- R. Reflective/mirrored glass shall be discouraged.
- S. Buildings shall not have unfinished surfaces visible to the public.

#### **§ 9.14 – New construction.**

Buildings should have a recognizable entrance facing the public street.

- A. Design and location of balconies should reinforce the building form.
- B. All projects should consider the overall form, and detail of the building. Box buildings are discouraged.

#### **§ 9.15 – Site design relationships.**

The coordination of facade components establish an identity for an office building, industrial building or shopping plaza. Therefore, for all unified developments and shopping centers including principal buildings and out parcel development, all buildings and signage shall demonstrate compatibility in materials and consistency in style throughout all exterior elevations. The following standards shall apply to all new and substantial development. Buildings and signage shall demonstrate the following:

- A. Compatibility with adjacent land uses in terms of scale and lot coverage.
- B. Utilize color schemes that blend with those of neighboring developments, as well as consistency in color schemes for the site. Accent colors and materials shall be chosen to enhance architectural detail.
- C. In the case of buildings with multiple storefronts and shopping centers with out-parcel develop-

ment, facade treatment shall be coordinated and have like details. Such facade treatments include: building colors, building, floors, storefront, signage, awnings, roof materials, and roof pitch.

- D. Building signs shall be designed as integral architectural elements with proportions related to the surfaces to which they are attached.

#### **§ 9.16 – Balcony enclosures.**

This section refers to the prohibition of the enclosure of a balcony on a residential building as follows:

- A. The enclosure substantially alters the architectural pattern of the building.
- B. The enclosure does not match wall and window designs.
- C. The enclosure may result in serious structural and/or water damage.
- D. The enclosure does not front on a public street.
- E. Reserved.
- F. The enclosure may not alter the Floor Area Ratio (FAR).
- G. Applications for enclosures shall meet all Building and Village Code standards.

#### **§ 9.17 – Shutters.**

- A. Roll up or accordion shutters are permitted on ground floor fronting a public street when constructed of a see through, non-solid grate material. The casing for the grilles should be painted to match the building.
- B. Roll up or accordion shutters are permitted on upper floors if all match in building.
- C. Shutters shall not be used to enclose balconies.

#### **§ 9.18 – Bayview.**

- A. Buildings should provide view/light/breeze corridors to the bay.
- B. Building pedestal should not form continuous sheer wall along the bay. Decorative surfaces, multi-level decks, berming and sufficient setbacks shall reduce the impact of the pedestal.
- C. Buildings should be designed with distinctive form. Stepped form and distinctive roof lines create a more interesting skyline and increase building recognition.
- D. Pool decks should include landscaping to provide shade and tropical image.
- E. All bayfront projects in the RM-70 and CG districts shall provide bay walkways along the rear of the property, which can be connected to other properties.

#### **§ 9.19 – Color palette.**

- A. The Village supports a building color criteria for all buildings and accessory structures. The design of these guidelines is to enhance the appearance of development within the Village, which will improve and/or maintain property values for all Village residents and property owners.
- B. Colors for buildings should be expressed as follows:
  - 1. Base building colors - Primary building walls. This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and

terracotta.

2. Secondary building colors - Larger "trim" areas such as a lower building base, building design details, or accent trim around windows and doors. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 25 percent of the major surface plane they are used upon.
3. Trim colors - Small area of color such as decorative trim along rooflines, and areas around windows, doors, frames, and signage. Trim colors are used for accent purposes and are the most intensive group of colors allowed. They shall be limited to not more than five percent of the building surface. These trim colors are usually darker and more intense than other colors. Dark blues, greens and even reds are appropriate. Light colors for trim, including whites and beiges are encouraged.

### **§ 9.20 – Commercial specific color palette.**

Color should be chosen to add to the retail environment of these buildings. More latitude will be given to retail color use than is given to other buildings within the Village (residential neighborhoods). The use of color to attract attention to a business (using the building or wall colors as a sign) from a distance is prohibited.

This color category relates to the main area of walls on the building. Recommended colors include whites through soft pastel colors such as grays, pinks, yellows, greens, and blues. Other colors may include deeper but muted indigenous earthen or indigenous colors such as beiges, clays, light gold, and terra cotta.

- A. Secondary building colors. These colors are used for larger trim areas of the building and are limited to mid-range intensity of the base building or complementary color. Secondary colors shall be limited to 50 percent of the major surface plane they are used upon. Colors that are associated with a business identity also fall into this category provided they are not overly intensive. Base and secondary colors are interchangeable in proportion and hue.
- B. Trim colors. Trim colors are used for accent purposes and are the most intensive group of colors allowed. In addition to business identifying colors, it is encouraged that trim colors be chosen from the "natural palette" of South Florida. These colors include greens, blues, yellows and others that are found in the regions lush landscape, and natural features. These colors shall be limited to five percent of any single wall area.

### **§ 9.21 – Exterior Lighting.**

- A. Parking lot fixtures are to be selected not only for their functional value, but also for their aesthetic qualities. They are to be considered furniture of the parking lot visible both day and night. Light fixtures used in the district shall be decorative for new development or redevelopment within public view and are encouraged throughout the development. The decorative fixtures shall be of a style that compliments the development. Cobra heads are prohibited within a development. Shoe box units may be used but are discouraged at entrances and exits.
- B. Parking area lighting should complement the lighting of adjacent streets and properties, and should use consistent fixtures, source colors and illumination levels.
- C. Light fixtures in parking lots must be a maximum height of 20 feet.
- D. Poles should be placed to provide a unified, organized appearance throughout the parking

area or development and should provide even and uniform light distribution. The use of a greater number of low fixtures in a well-organized pattern is preferred over the use of a minimum number of tall fixtures.

- E. Outdoor storage areas including auto and truck parking and storage should be illuminated from poles similar to those used for parking lot lighting, but at lower illumination levels.
- F. Parking lot and security lighting shall be designed to direct light into the property.
- G. Security lighting should be limited to low-intensity specialty fixtures. The light source should not be visible from the street or adjoining properties. Other wall mounted security lighting is discouraged.
- H. Building lighting should be used to highlight specific architectural features. Lighting of architectural features should be designed with the intent of providing accent and interest or to help identify entry and not to exhibit or advertise buildings or their lots.
- I. Neon is discouraged to border windows or create a false sense of architecture.
- J. The use of neon as an architectural accent is discouraged.
- K. When pedestrian lighting is used in conjunction with street lighting, the pedestrian lighting should be clearly distinguishable from the ambient street lighting to clearly define the pedestrian path of travel.
- L. When adjacent to pedestrian circulation and gathering areas, parking area lighting should not overpower the quality of pedestrian area lighting.
- M. Lighting should be designed to provide even and uniform light distribution without hot spots dark spots or glare. Lighting should be designed to minimize dark areas that could pose a security concern near pedestrian areas. Pedestrian circulation systems should be highlighted by visible light sources that clearly indicate the path of travel ahead.
- N. Placement of fixtures should provide a coordinated and organized appearance that facilitates uniform light levels and works with the placement of sidewalks, landscaping, signage, building entries and other features to contribute to the overall continuity of the streetscape and development.
- O. Accent lighting of landscape areas should be low level and background in appearance.
- P. The color of the light sources shall be consistent throughout the project. High pressure sodium lamps are not permitted.
- Q. Decorative accent lighting of landscape features, at entrances and exits is recommended.
- R. All new or replaced exterior fixtures shall be Energy-Star qualified LED (Light Emitting Diode) type fixtures.

#### **§ 9.22 – Access, public rights of way, and utilities.**

Off-site improvements associated with new development or redevelopment shall be subject to the following:

- A. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.
- B. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.

- C. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.
- D. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public rights-of-way must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.
- E. Off-site improvements associated with new development or redevelopment shall be subject to the following:
  - 1. Public use of existing and future rights-of-way should be enhanced through thoughtful vehicular and pedestrian improvements, and good maintenance. Existing public rights-of-way should be used directly to benefit the public.
  - 2. Off-site improvements shall be consistent with the Village's established specifications for such improvements or be subject to Village Commission approval.
  - 3. Drainage and disposition of natural and storm water shall be designed to be compatible with existing systems.
  - 4. New, replacement, or upgraded on-site utilities and other services shall be provided underground. If at all possible, new, replacement or upgraded utilities and other services provided within public rights-of-way must also be placed underground. Where an approved master plan of improvements calls for underground utilities and other services in the right-of-way, the improvements should be consistent with and implement the master plan.

**§ 9.23 – Crime prevention through environmental design (CPTED).**

The U.S. Government "Crime Prevention Through Environmental Design Program" (CPTED) incorporates architectural solutions to reduce the opportunity of crime. Elimination of recessed entryways, provision of adequate lighting and proper design of spaces will reduce the possibility of criminal activity.

- A. Building mounted lighting shall be installed on alley frontage and side yards. This is particularly recommended at service/delivery entrances.
- B. Windows in the alleys or sides provide the appearance of natural surveillance and may discourage break-ins. Such windows shall not be blocked up.
- C. See through fences and gates of metal pickets shall be located to discourage uncontrolled access to service/delivery areas.
- D. Hiding places and blind corners shall be eliminated from site/building, where possible.
- E. The concept of natural surveillance, visibility by the public (shoppers, pedestrians, motorists, and/or personnel) shall be incorporated into the design where possible.
- F. Landscaping shall be designed to discourage crime. Tree heights/spread shall allow sufficient visibility, not completely block views of/from doors and windows. Shrubs shall not be planted where they may become hiding places.

**§ 9.24 – Synthetic turf.**

Synthetic turf may be permitted on all properties used for residential, mixed-use or commercial purposes, subject to the requirements and procedures set forth in this section.

- A. Synthetic turf shall comply with all the following design standards and shall:

1. Simulate the appearance of live turf, organic turf, grass, sod or lawn, as determined by the Public Works Director or designee, and the Village Manager or designee, and shall have a minimum eight-year "no fade" warranty.
  2. Be of a type known as cut pile infill with pile fibers of a minimum height of 1.75 inches and a maximum height of 2.5 inches.
  3. Have a minimum face weight of 75 ounces per square yard.
  4. Be manufactured from polyethylene monofilament, dual yarn system, and manufactured in the United States.
  5. Have backing that is permeable.
  6. Be lead free and flame retardant.
  7. Shall not exceed more than 20% of the plantable area of a yard.
- B. Synthetic turf shall comply with all the following installation standards and shall:
1. Be installed by a Florida-licensed general contractor or Florida-licensed landscape architect in a manner prescribed by the manufacturer.
  2. Be installed over a subgrade prepared to provide positive drainage and an evenly graded mass of porous crushed rock aggregate material that is a minimum of three (3) inches in depth.
  3. Be anchored at all edges and seams.
  4. Not have visible seams between multiple panels.
  5. Have seams that are joined in a tight and secure manner.
  6. Have an infill medium consisting of clean silica sand or other mixture, pursuant to the manufacturer's specifications or as approved by the Public Works Director, that shall:
    - a. Be brushed into the fibers to ensure that the fibers remain in an upright position;
    - b. Provide ballast that will help hold the turf in place; and
    - c. Provide a cushioning effect.
- C. Synthetic turf shall comply with all the following additional standards:
1. Areas of living plant material shall be installed and/or maintained in conjunction with the installation of synthetic turf when utilized in the front yard area. Living plant material shall include a combination of two or more shrubs, vines, trees, or groundcovers in separate planter areas and/or tree wells.
  2. Synthetic turf shall be separated from planter areas and tree wells by a concrete mow strip, bender board or other barrier with a minimum three-eighths-inch thickness to prevent the intrusion of living plant material into the synthetic turf.
  3. Irrigation systems proximate to the synthetic turf shall be capped, directed or otherwise treated so that no irrigation affects the synthetic turf.
- D. Synthetic turf shall comply with all the following maintenance standards and shall:
1. Be maintained in an attractive and clean condition, and shall not contain holes, tears, stains, discoloration, seam separations, uplifted surfaces or edges, heat degradation or excessive wear.
  2. Be maintained in a green fadeless condition and free of weeds, debris, and impressions.
- E. All uses of synthetic turf shall require a building permit. The building permit application shall include, at a minimum, all the following information:
1. A complete landscape plan showing the area of synthetic turf, area of living plant material, and area and method of separation between these areas.
  2. Details regarding existing or proposed irrigation proximate to the synthetic turf.
  3. Brand and type of synthetic turf, including all manufacturer specifications and warranties.
  4. A scaled cross section and details of the proposed materials and installation, including but not limited to subgrade, drainage, base or leveling layer, and infill.

5. A survey of the property, signed and sealed by a licensed surveyor, depicting all existing easements located on the property.
  6. A form signed by any holder of an easement or right-of-way on the property consenting to the installation of the synthetic turf within the easement or right-of-way, with an accompanying acknowledgement by the property owner that in the event the easement holder performs work in the easement that it is the property owner's responsibility to repair and replace the synthetic turf disturbed as a result of the work in the easement.
- F. Synthetic turf proposed within a public right-of-way, shall only be installed upon the authorization of the Public Works Director and the City Manager.

### **§ 9.25 – Green Walls.**

A green wall, also referred to as a living wall or a vertical garden, is an internal or external wall partially or completely covered with vegetation that includes a support structure, growing medium, and integrated water delivery system. Green walls can contain one planting bed in the ground at the base of the wall; this is limited to one or two story buildings with vine coverage; planting boxes at the bases of each floor for multi-story buildings, or individual planting cells uniformly dispersed over the entirety of the side of the structure. Green walls can conserve energy, promote a healthy landscape, support public health and safety, and otherwise increase a development's sustainability. The provisions in this subsection are the minimum landscape requirements of the Village pertaining to external green walls.

- A. A decorative wall containing only artificial plants is not considered a green wall per this subsection; should artificial plant material be included in conjunction with a green wall the following applies:
  1. It cannot exceed more than 10% of the total proposed green wall area.
  2. The area of artificial material must be clustered in no more than two (2) distinct locations.
  3. It must have the appearance of living materials.
  4. It must be maintained in a green fadeless condition, and
  5. The area of artificial materials will not be included within the area delineated as green wall utilized for points in the Green Building Program per Division 5 of Chapter 8.
- B. Installation of a green wall shall require a building permit. The plan set submitted for the building permit application shall include, at a minimum, the following:
  1. The delineation of and the total area of green wall.
  2. The specifications for the irrigation system.
  3. The structural components of the support system and demonstrated compliance with the Florida Building Code.
  4. Identification of the planting medium, and the structure, size and location of planting cells and/or planting beds.
  5. A planting chart that includes plant identification, quantities and specifications.
  6. The plant installation specifications including how vines/plants will initially be fastened to the structure, and
  7. The long-term plant fertilization and maintenance regime.
- C. A green wall shall comply with all the following installation standards:
  1. Shall include an irrigation system.
  2. The area delineated as green wall shall contain 100% living plant material and shall not incorporate artificial plant material into the green wall.
  3. A green wall twenty (20) feet or less in height beginning at the ground level:
    - a. May be constructed with a single in-the-ground planting bed at the base of the wall.
    - b. The planting bed and plant installation shall comply with the provisions of § 9.7 D. within this Chapter.

- c. Vine type plant materials capable of achieving a 20-foot height and the coverage requirements of the Section shall be installed, and
- d. Installed material shall be at least 4' height upon installation, and
- e. Installed material shall be of sufficient density and fulness to meet at least 20% coverage of the delineated green wall area upon installation.
- 4. Green walls greater than twenty (20) feet in height:
  - a. Shall have planting cells uniformly dispersed over the entire green wall area or have planting beds at multiple heights along the green wall area.
  - b. Planting cells and planting beds shall be of sufficient size, spacing, and quantity to provide for a minimum of at least 60% coverage by installed plant materials on the delineated green wall area upon installation, and
  - c. Installed material shall be of sufficient density and fulness to meet at least 60% coverage of the delineated green wall area upon installation.
- D. All green walls shall comply with the following additional standards:
  - 1. Installed plants shall be maintained and replaced as needed to ensure at minimum of 85% viability of quantity of installed material,
  - 2. Installed material shall attain an 95% coverage of the delineated green wall within one year of installation, and
  - 3. The green wall shall be maintained in an attractive condition free of weeds, debris and structural defects.
- E. The Village reserves the right to require a bond upon application for a green wall to ensure maintenance and viability for the first year after installation.
- F. On a case by cases basis, at the discretion of the Village Manager or designee, a green wall may meet some or all of a perimeter landscape buffer planting requirement. Adjacent properties and uses, and size of green wall will be contributing factors in this decision.

### **§ 9.26 – Green Roof.**

A Green roof, also referred to as a living roof, is a roof of a building that is partially or completely covered with living vegetation and a growing medium, planted over a waterproofing membrane. A green roof also includes additional layers such as a root barrier and drainage and irrigation systems. A green roof can be comprised of a single planting bed or multiple individual planting bed components integrated as a single roof system. Green roofs can conserve energy, promote a healthy landscape, support public health and safety, and otherwise increase a development's sustainability. The provisions in this section are the minimum landscape requirements of the Village pertaining to green roofs.

- A. Installation of a green roof shall require a building permit. The plan set submitted for the building permit application shall include, at a minimum, the following:
  - 1. A delineation of and the total area of the green roof,
  - 2. Specifications for the irrigation system,
  - 3. Specification on the structural components of the green roof system and demonstrated compliance with the Florida Building Code,
  - 4. Identification of the planting medium, and structure and location of planting cells if comprised of multiple integrated component beds,
  - 5. A planting chart that includes plant identification, quantities and specifications,
  - 6. Plant installation specifications, and
  - 7. A long-term plant fertilization and a maintenance regime.
- B. A green roof shall comply with all the following installation standards:
  - 1. Shall include an irrigation system, and
  - 2. Plant material shall meet at least 85% coverage of the delineated green roof area upon installation.

- C. A green roof shall comply with the following additional standards:
  - 1. Installed plants shall be maintained and replaced as needed to ensure at minimum of 85% viability of quantity of installed material.
  - 2. Installed material shall attain an 100% coverage of the delineated green roof area within one year of installation, and
  - 3. The green roof shall be maintained in an attractive condition free of weeds, debris and structural defects.
- D. The Village reserves the right to require a bond upon application for a green roof to ensure maintenance and viability for the first year after installation.
- E. On a case by cases basis, at the discretion of the Village Manager or designee, a green roof may contribute to landscape buffer requirements. Adjacent properties and uses, and size of green roof will be contributing factors in this decision.

### **§ 9.27 – Vegetable Garden.**

Nothing in this code precludes a property owner from installing and maintaining a vegetable garden.

- A. A vegetable garden must be maintained in accordance with § 9.7. D. of this Chapter.
- B. A vegetable garden cannot be installed in a right-of-way or easement without a form signed by any holder of an easement or right-of-way on the property consenting to the installation of the vegetable garden within the easement or right-of-way, with an accompanying acknowledgement by the property owner that in the event the easement holder performs work in the easement that it is the property owner's responsibility to repair and replace the vegetable garden disturbed as a result of the work in the easement.
- C. A vegetable garden does not fulfill the requirements for perimeter landscape buffer plantings.
- D. A vegetable garden must maintain at a minimum a five (5) foot setback from a waterbody to aid in impeding the introduction of nutrients, herbicides or pesticides into the waterbody.
- E. Any compost pile(s) maintained in conjunction with a vegetable garden shall maintain at least a ten (10) foot setback from an adjacent waterbody to aid in impeding the introduction of nutrients into the waterbody.

## **DIVISION 7, STORMWATER MANAGEMENT**

### **§ 9.248 – Standards**

The design and performance of all stormwater management systems in North Bay Village at a minimum shall comply with Florida Department of Environmental Protection (FDEP) stormwater rules which requires removal of 80 to 95 percent of stormwater pollutants prior to their discharge into receiving waters. Furthermore, this rule requires treatment by retention or by detention with filtration of the first inch of runoff for sites containing less than 100 acres.

### **§ 9.259 – Permit Authority and Delegation**

FDEP has delegated the authority to permit stormwater management in South Florida to the South Florida Water Management District which, in turn, has delegated its authority in Dade County to DERM with its more stringent criteria.

### **§ 9.2630 – Design Requirements**

All new development and redevelopment within the Village, and any future repair, maintenance, or rebuilding of the existing system shall at minimum, conform to Dade County DERM

regulations. In North Bay Village, DERM requirements to be met are:

- A. Rainfall frequency – Five-year
- B. Flood limit - To crown of street or to within 15 feet of a dwelling or other occupied building, whichever is lower.

## CHAPTER 10, FLOOD DAMAGE PROTECTION

### § 10.1 – Statutory Authorization, Findings of Fact, Purpose, and Objectives

#### A. Statutory authorization

The legislature of the State of Florida has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Village Commission of North Bay Village, Florida has passed the above-named ordinance.

#### B. Findings of fact

1. The flood areas of North Bay Village are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effects of obstructions in flood hazard areas causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damage.

#### C. Statement of purpose

Statement of purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural water flows and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### D. Objectives

The objectives of this ordinance are:

1. To protect human life and health;
2. To minimize expenditure of public money for flood control;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;

5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodprone areas;
6. To help maintain a stable tax base by providing for sound use and development of floodprone areas and;
7. To ensure that potential homebuyers are notified that property is in a floodprone area.

## **§ 10.2 – Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls in new construction.

*Appeal* means a request for a review of the building official's interpretation of any provision of this ordinance or a request for a variance.

*Area of special flood hazard* is the land in the floodprone area within a community subject to a one per cent chance of flooding in any given year.

*Base flood* means the flooding having a one percent chance of being equaled or exceeded in any given year.

*Building* means any structure built for support, shelter, or enclosure for any occupancy or storage.

*Coastal high hazard areas* means the area subject to velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE or V.

*Development* means any man-made changes to improved or unimproved real estate, including, but not limited to: building or other structure, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

*Elevated building* means a non-basement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

*Existing construction* means any structure for which the "start of construction" commenced before June 18, 1984 [2].

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the Federal Emergency Management Agency (FEMA), where the boundaries of the areas of special flood hazard have been defined as Zone A.

*Flood insurance rate map (FIRM)* means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

*Flood insurance study* means the official report provided by FEMA. The report contains flood profiles, as well as the flood boundary map and the water surface elevation of the base flood.

*Floor* means the top surface of an enclosed area in a building, i.e., top of slab in concrete construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking of vehicles.

*Freeboard* shall mean the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions.

*Functionally dependent facility* means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking for loading and unloading of cargo or passengers, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the building.

*Historic structure* means any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior;
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  1. By an approved state program as determined by the Interior, or
  2. Directly by the secretary of the interior in states without approved programs.

*Mean sea level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD).

*National Geodetic Vertical Datum (NGVD)* as corrected in 1929, is a vertical control used as a reference for establishing elevations within the floodplain.

*New construction* means any structure for which the "start of construction" commenced after June 18, 1984. The term also includes any subsequent improvements to such structure.

*Start of construction* includes substantial improvement, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, and means the date the building permit was issued, provided the start of construction, repair, reconstruction, or improvement, including any additions, was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building on a site such as the pouring of slabs or footings, installation of pilings, construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory

buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building that is partly above ground.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of market value of the structure before the damage occurred.

*Substantial improvement* means any combination of repairs, construction, alteration, or improvements including any additions to a building taking place during a minimum ~~five~~ ten-year period in which the cumulative cost equals or exceeds 50 percent of the market value of the building. The market value of the building should be (1) the appraised value of the building at the start of the initial repair or improvement, or (2) in case of damage, the value of the building prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.

### **§ 10.3 – General Provisions**

- A. Lands to which this ordinance applies. This ordinance shall apply to all areas within the jurisdiction of North Bay Village.
- B. Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study, dated November 4, 1987 with accompanying maps and other supporting data, and any revision thereto, are adopted by reference and declared to be a part of this ordinance.
- C. Establishment of development permit. A development permit shall be required in conformance with provisions of this ordinance prior to the commencement of any development activities.
- D. Compliance. No structure or land shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.
- E. Abrogation and greater restrictions. This ordinance shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.
- F. Interpretation. In the interpretation and application of this ordinance all provisions shall be:
  - 1. Considered as minimum requirements;
  - 2. Liberally construed in favor of the officers and agents of the Village; and
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- G. Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Flood heights may be increased by man-made or natural causes. This ordinance shall not create liability on the part of North Bay Village or by any officer or

employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully thereunder.

- H. Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violations continue shall be considered a separate offense. Nothing herein contained shall prevent North Bay Village from taking such other lawful actions as is necessary to prevent or remedy any violation.

#### **§ 10.4 – Administration**

- A. Designation of building official. The building official is hereby appointed to administer and implement the provisions of this ordinance.
- B. Permit procedures. Application for a development permit shall be made to the building official on forms furnished by him or her prior to any development activities, and may include, but not be limited to: the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed earthen fill; storage of materials or equipment; drainage facilities; and the location of the foregoing. Specifically, the following information is required:
1. Application stage
    - a. Elevation in relation to mean sea level of the proposed lowest floor of all buildings.
    - b. Elevation in relation to mean sea level to which any nonresidential building will be flood-proofed.
    - c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Section 10.5(B)(2).
  2. Construction stage.
    - a. Provide a floor elevation or flood-proofing certification after the lowest floor is completed, or instances where the building is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Upon placement of the lowest floor, or flood-proofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the building official a certification of the elevation of the lowest floor, floodproofed elevation, or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level.
    - b. Said certification shall be prepared by or under the supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk.

- c. The building official shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections hereby, shall be cause to issue a stop-work order for the project.

C. Duties and responsibilities of the building official. Duties of the building official shall include, but not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
2. Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
3. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Section 10.4(B)(2).
4. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been flood-proofed, in accordance with Section 10.4(B)(2).
5. When flood-proofing is utilized for a particular building, the building official shall obtain certification from a registered engineer or architect, in accordance with Section 10.5(B)(2).
6. Where interpretations as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the building official shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
7. When base flood elevation data have not been provided in accordance with Section 10.3(B)(2), then the building official shall obtain, review, and reasonably utilize any base flood elevation available from a federal, state, or other source, in order to administer the provisions of Section 10.5.
8. In coastal high hazard areas, certification shall be obtained from registered professional engineer or architect that the building is designed and securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash.
9. In coastal high hazard areas, the building official shall review plans for adequacy of break-away walls in accordance with Section 10.5(B)(4)(h).

D. Variance requirements

1. The planning and zoning board, as established by North Bay Village, shall hear requests for variances from the requirements of this ordinance, in accordance with the procedures prescribed for requests for amendment, variance, special use exception, or supplement to the regulations in the Village Code of Ordinances. The planning and zoning board shall submit its recommendations to the Village Commission for final action on such requests pursuant to procedures therein prescribed, provided, however, that the criteria for granting variances from this ordinance shall be those set forth hereinafter.

2. Conditions and criteria for granting of variances. In considering such applications, the planning and zoning board and Village Commission shall consider all technical evaluations, all relevant factors, all standards specified in other sections of the North Bay Village Land Development Code, and:
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;
  - k. The costs of providing governmental services during and after the flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;
  - l. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building;
  - m. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship, and; (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinance.
  - n. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
  - o. The building official shall maintain the records of all appeal actions and report

any variances to the Federal Emergency Management Agency.

3. Variances for historic structures. Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
  4. Upon consideration of the factors listed above, and the purposes of this ordinance, the planning and zoning board and Village Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- E. Appeals. The Village Commission may, after a public hearing, grant relief on appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation of any portion of these regulations.

### **§ 10.5 – Provisions for flood hazard reduction**

- A. General standards. In all areas of special flood hazard the following provisions are required:
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  2. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  3. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  5. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  8. Any alteration, repair, reconstruction, or improvements to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.
  9. Any alteration, repair, reconstruction, or improvements to a building which is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.
- B. Specific standards. In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Section 10.3(B), the following provisions are required:
1. Residential construction. New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than ~~one foot~~ two feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings

sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of Section 10.5(B)(3).

2. Nonresidential construction.
  - a. New construction or substantial improvement of any commercial, industrial, or nonresidential building shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation or in accordance with the flood design established for the Flood Design Class established in ASCE 24 as adopted by the Florida Building Code, whichever is higher.
  - b. Buildings located in all A-Zones may be flood-proofed in lieu of being elevated provided that all areas of the building below the floodproofing required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Flood proofed buildings shall be floodproofed no lower than one foot above the base flood elevation or in accordance with the flood design established for the Flood Design Class established in ASCE 24 as adopted by the Florida Building Code, whichever is higher. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 10.4.
3. Elevated buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finishing living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (2) The bottom of all openings shall be no higher than one foot above grade; and
    - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
4. Coastal high hazard areas (V Zones). Located within the areas of special flood hazard established in Section 10.3(B), are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash, therefore, the following provisions shall apply:

- a. All buildings shall be located five feet landward of the reach of the mean high tide;
- b. All buildings shall be elevated so that the bottom of the lowest supporting horizontal member (excluding pilings or columns) is located no lower than five feet above the base flood elevation level, with all space below the lowest supporting member open so as not to impede the flow of water. Open lattice work or decorative screening may be permitted for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with Section 10.5(B)(4)(h).
- c. All buildings or structures shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Water loading values shall equal or exceed the base flood. Wind loading values shall be in accordance with the South Florida Building Code.
- d. A registered professional engineer or architect shall certify that the design, specifications, and plans for construction are in compliance with the provisions contained in Section 10.5(B)(4)(b) and 10.4(B)(4)(c).
- e. There shall be no fill used as structural support. Noncompacted fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided the fill will wash out from storm surge, (thereby rendering the building free from obstruction) prior to generating excessive loading forces, ramping effects, or wave deflection. The building official shall approve design plans for landscaping/aesthetic fill only after the applicant has provided an analysis by an engineer, architect, and/or soil scientist, which demonstrates that the following factors have been fully considered:
  - (1) Particle composition of fill material does not have a tendency for excessive natural compaction;
  - (2) Volume and distribution of fill will not cause wave deflection to adjacent properties; and
  - (3) Slope of fill will not cause wave run-up or ramping.
- f. There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage;
- g. Lattice work or decorative screening shall be allowed below the base flood elevation provided they are not part of the structural support of the building and are designed so as to breakaway under abnormally high tides or wave action, without damage to structural integrity of the building on which they are to be used and provided the following design specifications are met:
  - (1) No solid walls shall be allowed, and;
  - (2) Material shall consist of lattice or mesh screening only.
- h. If aesthetic lattice work or screening is utilized, such enclosed space shall not be designed to be used for human habitation, but shall be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises.
- i. Prior to construction, plans for any buildings that will have lattice work or decorative screening must be submitted to the building official for approval;

- j. Any alteration, repair, reconstruction, or improvement to a structure shall not enclose the space below the lowest floor except with lattice work or decorative screening, as provided for in Section 10.5(B)(4)(h) and 10.5(B)(4)(i).

C. Standards for subdivision proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
4. Base flood elevation data shall be provided for subdivision proposals and other proposed development.

## Chapter 91 - ANIMALS<sup>512</sup>

Footnotes:

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**Cross reference**— Animals, fowl, and dog regulations, Chapter 5, § 21-28(c), Dade County Code.

### GENERAL PROVISIONS

#### § 91.01 - Killing animal of another prohibited.

Whoever, in the Village, shall commit, or shall aid, abet, or assist another in, maliciously or wantonly or by gross negligence, killing a dog or other animal of another person, shall be guilty of an offense against the Village.

(1964 Code, § 13-7(d))

**Cross reference**— Penalty, § 91.99.

#### § 91.02 - Prohibited animals.

It shall be unlawful for any person to keep or maintain or raise within Village limits any live monkeys, apes, reptiles, rabbits, wild animals, horses, ponies, cattle, sheep, swine, goats, poultry, fowl, livestock, farm animals, or animals for husbandry or dairy, including all animals similar to the foregoing. For purposes of this subsection, fowl is defined as chicken, duck, goose, turkey or any domesticated bird used as human food.

(1964 Code, § 13-7(v); Ord. 90-09, passed 5-22-90; Ord. No. 02-16, § 1, 6-25-02)

**Cross reference**— Penalty, § 91.99.

#### § 91.03 - Excrement.

- (A) It shall be unlawful for the person who has control over a dog or other domesticated pet or other animal, to fail to immediately remove and dispose of animal wastes (except for law enforcement animals while on duty) deposited by the dog or domesticated pet or other animal upon any public property, including but not limited to sidewalks, rights of way, linear, passive and other public park properties; further, including, any similar occurrence that takes place upon an unauthorized private property.
- (B) It shall further be the duty of any person while in direct control of a dog or other domesticated animal or pet to have in their possession a plastic bag or "pooper scooper" or other such device sufficient for their use in the removal of animal waste when not within their own property.
- (C) Disposal of dog or other domestic pet or other animal waste shall occur by promptly placing the waste in a designated waste container. Animal waste shall never be thrown into a waterbody.
- (D) This section may be enforced by all police officers, animal control officers, code enforcement officers, or park rangers in the town. Violators may be punished by issuance of a notice to appear, a civil citation or a code enforcement violation notice, and upon a finding of guilt or fact, said violator may be subject to a fine or other penalty.

(E) The owner of any dog or other domesticated pet or other animal shall remove animal waste from his or her property if it poses a threat to the health, safety or well-being of any animals, persons or waterbodies.

(F) This section shall not apply to disabled persons accompanied by any service animal used for assistance in accordance with the law.

~~(A) It shall be unlawful for any person, firm, or corporation to allow or permit any dog or other animal to void excrement on any public or private property other than the property of the owner of such dog or other animal.~~

~~(B) Dogs or other animals may be allowed or permitted to void excrement between the curbs of public streets of the Village provided that the owners of such dogs or other animals clean and remove such excrement after such dog or other animal has voided same.~~

~~(C) No person shall permit such dog or other animal to unlawfully void excrement on private property or fail to clean and remove such excrement from public property after having been voided by such dog or other animal, after a warning from proper authority.~~

(1964 Code, § 4-4; Ord. 251, passed 4-16-73)

**Cross reference**— Penalty, § 91.99.

## DOGS

§ 91.10 - Dogs which are vicious or a nuisance; cruelty to, stealing or abandoning dogs.

(A) No person shall keep, harbor, or own any dog in the Village which indulges or engages in frequent or habitual barking, yelping, or howling, or which is mean or vicious, thereby creating annoyance to the inhabitants of the neighborhood in which the dog is kept or to people passing to and from the public streets.

(B) No person shall keep, harbor, or own a dog who is cruel and inhumane to the animal, such cruelty and inhumaneness consisting of unnecessarily beating or torturing or mutilating or cruelly killing, failing, or neglecting to provide suitable food or drink in sufficient quantities, together with adequate shelter for such animal.

(C) No person shall steal any dog or abandon an aged, sick, disabled, or otherwise unwanted dog.

(1964 Code, § 4-1; Ord. 69, passed 7-17-52)

**Cross reference**— Penalty, § 91.99.

§ 91.11 - Keeping dogs for commercial purposes prohibited; exception.

It shall be unlawful for any person, firm, association, or corporation to house or keep dogs for commercial purposes in the Village other than a licensed veterinary doctor which such doctor has dogs in his custody and control solely for the purpose of providing them with medical care and attention.

(1964 Code, § 4-2; Ord. 69, passed 7-17-52)

**Cross reference**— Penalty, § 91.99.

§ 91.12 - Keeping more than three dogs prohibited; exception.

No person, firm, association, or corporation shall own or keep more than three dogs over the age of six months within the Village other than a licensed veterinary doctor where such doctor has the control and custody of such dogs solely for the purpose of providing them with medical care and attention.

(1964 Code, § 4-3; Ord. 69, passed 7-17-52)

**Cross reference**— Penalty, § 91.99.

§ 91.13 - Running at large prohibited.

(A) For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*At large.* Off the premises of the owner, and not under the control, custody, charge, or possession of the owner, or other responsible person, either by leash, cord, or chain.

*Dog.* Includes both male and female.

*Responsible party.* Includes any person, persons, firms, corporations, or associations owning, harboring, keeping, or controlling a dog or dogs within the Village. Wherever the words *Owner* or *Person* are used in this section, these words shall mean *Responsible party*.

(B) No responsible party owning or having possession, charge, custody, or control of any dog shall cause or permit or allow the dog to stray, run, be, go, or in any manner to be at large in or upon any public street, sidewalk, or park, or on private property of others without the express or implied consent of the owner of the private property.

(C) Any responsible party who violates any of the provisions of this section shall be punished as provided for in § 91.99.

(Ord. 85-10, passed 8-13-85)

**Cross reference**— Penalty, § 91.99.

## ANIMAL CONTROL ENFORCEMENT

§ 91.20 - Definitions.

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

*Animal.* Any living non-human dumb creature.

*Animal control officer.* Any person employed or appointed by the Village Manager who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this section. An Animal Control Officer, as such, is not authorized to bear arms or make arrests.

*Citation.* A written notice issued to a person by an officer that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance, and that the county court will hear the charge. The citation shall contain:

- (1) The date and time of issuance;
- (2) The name and address of the person;
- (3) The date and time the civil infraction was committed;
- (4) The facts constituting probable cause;
- (5) The ordinance violated;
- (6) The name and authority of the officer;
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation;
- (8) The applicable civil penalty if the person elects to contest the citation;
- (9) The applicable civil penalty if the person elects not to contest the citation; and
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, then he shall be deemed to have waived his right to contest the citation and that in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

*Control.* The regulation of the possession, ownership, care, and custody of animals.

*Cruelty.* Any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

*Officer.* Any law enforcement officer defined in F.S. § 943.10, any veterinarian defined in F.S. § 474.202, or any Animal Control Officer.

*Ordinance.* Any ordinance enacted by the governing body of the Village that is a civil infraction relating to the control of or cruelty to animals including, but not limited to, all provisions of Chapter 91, of the Village Code.

(Ord. 88-04, passed 6-14-88)

§ 91.21 - Issuance of citation.

Any police officer of the Village and the designated Animal Control Officer of the Village is hereby authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations as provided in this subchapter.

(Ord. 88-04, passed 6-14-88)

**Cross reference—** Penalty, § 91.99.

§ 91.22 - Refusal to sign citation.

Any person who willfully refuses to sign and accept a citation issued by an officer shall be guilty of a misdemeanor of the second degree, punishable as provided by F.S. §§ 775.082, 775.083, or 775.084.

(Ord. 88-04, passed 6-14-88)

§ 91.23 - Authority to enact animal control provisions not in conflict with state law.

Nothing contained in this subchapter shall prevent the Village from enacting any ordinance relating to animal control or cruelty which is identical to the provisions of F.S. Ch. 828, or any other state law, except as to penalty. However, no ordinance relating to animal control or cruelty shall conflict with the provisions of said Chapter 828 or any other state law.

(Ord. 88-04, passed 6-14-88)

§ 91.24 - Other enforcement.

Nothing in this subchapter shall preclude enforcement by suit for declaratory, injunctive, or other appropriate relief.

(Ord. 88-04, passed 6-14-88)

§ 91.99 - Penalty.

In lieu of any penalty providing for imprisonment or fine for any violation of the ordinances and laws described in this Chapter 91, it is hereby specifically provided as follows:

- (A) A violation of such ordinance or law shall constitute a civil infraction under this chapter;
- (B) The maximum civil penalty for each such violation shall not exceed \$500.00;
- (C) A civil penalty of \$200.00 shall be imposed if the person who has committed the civil infraction does not contest the citation;
- (D) A police officer or Animal Control Officer shall only issue a citation for a violation of such ordinance upon probable cause to believe that a person has committed an act in violation of such ordinance;
- (E) A citation issued under this chapter shall be subject to contest in the County Court in accordance with law and
- (F) Except as otherwise provided herein, the other procedures and provisions necessary to implement this chapter shall be those which are applicable to a noncriminal infraction cited to the County Court under F.S. § 327.73, and such procedure and provisions are hereby incorporated by reference.
- (G) The Village Attorney shall prepare the form of citation to be used in accordance with the above.

(Ord. 88-04, passed 6-14-88; Ord. No. 96-02, § 1, 1-9-96)

## Chapter 100 - TREE PRESERVATION AND PROTECTION

### § 100.01 - Tree preservation and protection.

(A) *Generally.* These tree preservation and protection regulations ("tree regulations") shall be a minimum standard for the protection, removal and relocation of trees and shall be enforced by the Village. It shall be unlawful for any person to abuse any tree by improper trimming, or to effectively destroy a tree not specifically exempted by this ordinance.

(B) *Definitions.*

- (1) *Caliper* shall mean for trees less than four inches in diameter, the trunk diameter measured at a height of six inches above natural grade. For trees four inches and greater in diameter, the trunk diameter measured at 12 inches above natural grade.
- (2) *Diameter at breast height ("DBH")* shall mean the diameter of a tree's trunk measured at a point four and one-half feet above the natural grade. In the case of multiple-trunked trees, the DBH shall mean the sum of each trunk's diameter measured at a height four and one-half feet above the natural grade.
- (3) *Hat-racking* shall mean flat-cutting the top of a tree, severing the leader or leaders, or the removal of any branch three inches or greater in diameter at any point other than the branch collar.
- (4) *Native habitat* shall mean an area enhanced or landscaped with an appropriate mix of native trees, shrubs and ground cover species that resembles a native plant community or natural forest community in structure and composition or is naturally occurring.
- (5) *Native plant community* shall mean a natural association of plants dominated by one or more prominent native plant species or characteristic physical attributes.
- (6) *Native plant species* shall mean a plant species with a geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, but not limited to, "A Flora of Tropical Florida" by Long and Lakela and "The Biology of Trees Native to Tropical Florida" by P.B. Tomlinson, are native plant species within the meaning of this definition.
- (7) *Natural forest community* shall mean all assemblages of vegetation designated as natural forest communities on the Dade County Natural Forest Community Maps and approved by the Board of County Commissioners, pursuant to Resolution No. R-1764-84 and further defined in Section 24-3 of the Dade County Code.
- (8) *Natural grade* shall mean the ground elevation of a property prior to the placement of any fill on the site.
- (9) *Pruning* shall mean the removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage the other parts of the plant.
- (10) *Specimen tree* shall mean a tree with any individual trunk which has a DBH of 18 inches or greater, provided, however, that the following trees are not specimen trees:
  - a. All trees listed in (c)(1)e.2.;
  - b. Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited, to mangos, avocados, or species of citrus;

c. Non-native species of the genus *fichus*.

(11) *Tree* shall mean a woody or fibrous perennial plant with a trunk having a minimum DBH of three inches or with an overall height of 12 feet.

(12) *Understory* shall mean the complex of woody, fibrous, herbaceous, and graminoid plant species that are typically associated with a natural forest community, native plant community, or native habitat.

(C) *Tree removal and relocation permits.*

(1) *Permits required.*

a. *Tree removal.* A tree removal permit is required for the removal or relocation of any tree in the Village not specifically exempted below. It shall be unlawful for any person, unless otherwise permitted by the terms of these tree regulations to do tree removal work or to abuse, hatrack, or effectively destroy any tree, or to effectively destroy any understory in a natural forest community.

b. *Natural forest community.* In addition to the requirements set forth herein, if a tree is located in a natural forest community, a permit must be obtained, prior to removal, from the Miami-Dade County Department of Environmental Resources Management.

c. *Illegal removal.* Trees that have been removed illegally shall be replaced on the basis of two caliper inches per each one caliper inch of tree removed [i.e., if a ten-inch caliper tree was removed, a total of 20 caliper inches shall be re-planted to comply with this provision]. Specimen trees that have been removed illegally shall be replaced on the basis of four caliper inches per each one caliper inch of tree removed. Trees shall be replanted on site and meet minimum standards for caliper and other provisions of these regulations, including height.

d. *Violations.* A Village official shall not issue a tree removal permit that does not comply with these tree regulations. Any such permit issued in error or under false pretenses shall be void. It shall be unlawful for any person to violate or not comply with any of the conditions of a Village tree removal or landscape permit.

1. *Mortgagees.* Any mortgagee with respect to property upon which any violation of these regulations has occurred shall not be liable for such violation unless, prior to said violation, said mortgagee has foreclosed upon said property or participated in the management or control of said property, or unless said mortgagee has effected or caused the tree ordinance violations occurring on said property.

2. *Prior actions.* If actions or omissions constituting a violation of these regulations occurred at a time when the completed actions or omissions were not prohibited by law, such completed actions or omissions shall not constitute a violation.

e. *Exemptions.* The following activities are exempt from tree removal permits, but may only be undertaken following an inspection by the Administrative Official.

1. Removal of any dead tree.

2. Removal of any tree recognized by the Florida Exotic Pest Plant Council as a Category I or Category II invasive tree on the current list as may be amended. ~~of the following tree species (provided the tree is not within a natural forest community, in which~~

~~case a permit must be obtained, prior to removal, from the Miami-Dade County Department of Environmental Resources Management):~~

- ~~(i) Melaluca quinquaervia (cajeput/paperbark)~~
- ~~(ii) Adenanthra pavonina (red sandalwood)~~
- ~~(iii) Casuarina equisetifolia (Australian pine, beefwood) Island~~
- ~~(iv) Cupaniopsis anacardioides (carrotwood)~~
- ~~(v) Schinus terebinthifolius (Brazilian pepper)~~
- ~~(vi) Dalbergia sissoo (Indian dalbergia, sissoo)~~
- ~~(vii) Bischofia javanica (bishopwood)~~
- ~~(viii) Ficus microcarpa (laurel fig)~~
- ~~(ix) Ricinus communis (castorbean)~~
- ~~(x) Psidium guajava (guava)~~
- ~~(xi) Flacourtia indica (governor's plum)~~
- ~~(xii) Albizia lebbek (woman's tongue)~~
- ~~(xiii) Hibiscus tiliaceus (mahoe)~~
- ~~(xiv) Acacia auriculaeformis (earleaf acacia)~~
- ~~(xv) Leucaena leucocephala (lead tree)~~
- ~~(xvi) Schefflera actinophylla (Queensland Umbrella)~~
- ~~(xvii) Mimosa pigra (catclaw niimosa)~~
- ~~(xviii) Araucaria heterophylla (Norfolk Island Pine)~~
- ~~(xix) Thespesia populnea (seaside mahoe)~~
- ~~(xx) Metopium toxiferum (poison wood)~~
- ~~(xxi) Hong Kong orchid tree~~
- ~~(xxii) Araucaria Heterohylla (Excelsa, Northfork Pine)~~
- ~~(xxiii) Brassala Actinophyera (Schefflera)~~

3. Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside of the control of any person, individually or otherwise, who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located, which acts could not have been prevented by the exercise of reasonable care by that person. Where a tree has been destroyed or effectively destroyed as described above, it is the intent of this provision to exempt from liability for such destruction or effective destruction the person who has or had a legal beneficial or equitable interest in the real property upon which such tree is located if the person could not have prevented the destruction by the exercise of reasonable care.
4. Removing, trimming, cutting or altering of any mangrove tree or removal of any tree located upon land which is a wetland.

5. Review of projects involving tree removal or relocation. The Administrative Official shall review all applications for development approval to determine if the applicant must apply for a tree removal permit. The Administrative Official shall also review for the same purpose proposed plans for new roadways or improvements to highway design projects and proposed plans for new public parks and recreational facilities and other public facilities.
6. Tree pruning, provided that the trees are pruned in accordance with the following:
  - (i) All cuts shall be clean, flush and at junctions, laterals or crotches. All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.
  - (ii) Removal of dead wood, crossing branches, weak or insignificant branches, and suckers shall be accomplished simultaneously with any reduction in crown.
  - (iii) Cutting of lateral branches that result in the removal of more than one-third of all branches on one side of a tree shall only be allowed if required for hazard reduction or clearance pruning.
  - (iv) Lifting of branches or tree thinning shall be designed to distribute over half of the tree mass in the lower two-thirds of the tree.
  - (v) No more than one-third of a tree's living canopy shall be removed within a one-year period.
  - (vi) Trees shall be pruned according to current ANSI A300 Standards and the Landscape Manual.

- (2) *Permit application.* The Administrative Official shall provide permit application forms for removal or relocation of trees within the Village. An owner, agent of the owner, or lessee of a property may apply for a tree removal permit. If the permit application is a lessee or agent of the owner, a statement from the property owner indicating that the owner has no objection to the proposed tree removal shall accompany the application. The permit applicant shall submit to the Administrative Official a completed application form. Permit application forms shall be accompanied by two sets of site plans, which are subject to review and approval by the Village Administrative Official. The site plan shall include the locations of all existing trees (including the sizes (DBH), type, location, and canopy spread) and all proposed structures or utilities which may require removal or relocation of trees. The Administrative Official may require that said plans be prepared by either a landscape architect, architect or an engineer registered in the state. If the submitted site plan does not provide sufficient information to determine which trees will be affected by the proposed development, the Administrative Official may require that a tree survey of the site be prepared and submitted for review.

On receipt of completed permit applications, the Village Manager shall determine whether the site contains any portion of a natural forest community, trees subject to protection, or specimen tree(s). If a site contains any portion of a natural forest community, then the permit must be submitted for review by the Miami-Dade County Department of Environmental Resource Management [DERM];

- (3) *Review and evaluation of permit application.* The Administrative Official shall conduct a review of each completed tree removal permit application. This review and all actions taken by the Administrative Official under the provisions of these tree regulations shall be conducted using

best available practices from biology, botany, forestry, landscape architecture and other relevant fields, and shall be conducted in a manner that is consistent with all applicable goals, objectives and policies in the comprehensive development master plan. Upon receipt of a completed permit application, the Administrative Official shall visit the site and determine whether the site contains specimen trees or any other trees subject to the provisions of these regulations.

- a. *Specimen trees.* If a site contains any specimen trees, then the provisions of subsection (4), "Specimen tree standards," shall apply.
  - b. *Natural forest community.* If a site contains any portion of a natural forest community, such portion shall be governed by the provisions of Section 24-60.2, et seq., of the Miami-Dade County Code of Ordinances. Further, tree removal from a natural forest community requires a permit from DERM.
  - c. *Other trees.* If there are trees present on a site other than any portion of a natural forest community or specimen trees, then the provisions of the (5) and (6) below, governing tree replacement requirements shall apply.
  - d. *Combination of tree types.* In the event that a site contains any combination of natural forest community, specimen trees or other trees, then the applicable provisions shall be applied in proportion to the presence of each type of tree or community.
- (4) *Specimen tree standards.* The standards to be applied in reviewing tree removal applications involving specimen trees are as follows:
- a. *Specimen trees application.* Specimen trees shall be preserved whenever reasonably possible. Upon receipt of an application to remove a specimen tree, the Administrative Official shall consider the following factors in evaluating said application:
    1. Size and configuration of the property.
    2. Size and configuration of any proposed.
    3. Location of the tree relative to any proposed development.
    4. Whether or not the tree can be preserved under the proposed plan or any alternative plan.
    5. Health, condition and aesthetic qualities of the tree.
    6. Whether the tree poses a threat to persons or property.
  - b. *Alternate plans.* If, upon review of the factors enumerated in subsection a. above, the Administrative Official determines that a specimen tree cannot reasonably be preserved under the proposed plan, then the applicant shall provide an alternate plan when feasible, which shall include preservation of the specimen tree and design alterations consistent with the scope and intent of the initially-proposed plan. Alterations consistent with the scope and intent of the initially proposed plan may include, but shall not be limited to:
    1. An adjustment of building orientation on a site.
    2. An adjustment of lot lines within a site proposal where said adjustment will not cause an unreasonable loss of usable space. An applicant shall have the burden of proof in the determination of what constitutes an unreasonable loss of usable space.

- c. *Specimen tree relocation.* If preservation of the specimen tree and any alternate design consistent with the scope and intent of the initial plan are mutually exclusive, then the Administrative Official may issue a permit to relocate the specimen tree. If the tree removal permit requires relocation, then the applicant shall be required to relocate the tree in accordance with the standards set forth herein.
  - d. *Removal of specimen trees.* If relocation of the specimen tree is not feasible due to the size, health, location, species or any other factor, then a permit may be issued for removal, and tree replacement shall be required.
  - e. *Replacement requirements for specimen trees.* As a condition of the issuance of a tree removal permit for the removal of a specimen tree, tree replacement requirements shall be twice those specified otherwise by these regulations in paragraph (6) below. For example, a tree with a canopy cover of 200 square feet shall be replaced with replacement trees having an impact area credit of 800 square feet. In the event that replacement is not feasible on-site, then alternative off-site replacement shall be required or, as a last alternative, there shall be a contribution to the Village Tree Trust Fund for the full value of the replacement trees. Additionally, there shall also be an equitable contribution to the Village Tree Trust Fund for the irreplaceable loss of the aesthetic and environmental contributions of the specimen tree(s), according to a contribution schedule established by resolution of the Village Commission.
  - f. *Exemptions.* An applicant may be exempt from the replacement requirements of paragraph e. above, but subject to the tree replacement requirements of paragraph (6) below, under the following circumstances:
    - 1. Upon submittal of a statement from a certified arborist registered in the state which indicates that a specimen tree, due to disease, condition, growth habit or any other reasonable botanical factor, does not provide the aesthetic or environmental contribution associated with a specimen tree. Said statement shall include the specific reason(s) for the claimed exemption from the provisions of these regulations.
    - 2. When a site contains more than one specimen tree, and 50 percent or more of the existing specimen trees and at least 50 percent of the existing specimen tree canopy area is preserved.
- (5) *Replacement requirements for tree removal.* As a condition of the issuance of a tree removal permit, the permittee shall be required to replace trees that are authorized to be removed under the provisions of these tree regulations. The number of trees and number of species of trees required for replacement shall be determined according to the specifications contained herein. The Administrative Official may require that replacement shall be described in a landscape replacement plan which shall meet the minimum requirements of the Code. No tree removal permit shall be issued until the Administrative Official has approved said plan.
- (6) *Procedures for determining tree replacement requirements.* The Administrative Official shall determine the total number and type of replacement trees required for the issuance of a tree removal permit according to the following procedural steps:
- a. *Step 1: Determining existing tree canopy coverage on-site.* The area of existing tree canopy coverage of a site shall be determined by the Administrative Official, using one or any combination of the following methods: review of aerial photography; on-site inspection;

and review of a tree survey. The Administrative Official may require the applicant to submit a tree survey for the purpose of this determination.

- b. *Step 2: Determining impact area of proposed project.* The area of existing canopy coverage which will be lost (impact area) by the applicant's proposed development shall be determined by the Administrative Official based on a site plan and completed tree removal permit application.
- c. *Step 3: Determining number of replacement trees required to be planted.* The total number of trees required for replacement shall be based on the impact area and the category of replacement tree selected by the applicant. Replacement tree categories shall compensate for the lost canopy.

Each replacement tree shall compensate at a ratio of 2:1 for a portion of the tree canopy lost in the impact area. For example, if the impact area is 300 square feet, replacement trees with a minimum impact area credit of 600 square feet will be required. The impact area credit is based on the canopy coverage the tree would normally be expected to have at maturity. The following table sets forth the credit which will be allowed for each category of replacement tree:

Category of Replacement Tree Impact Area Credit per Category of Replacement Tree (in Square Feet)

Shade tree 1	500
Shade tree 2	300
Palm tree 1	300
Palm tree 2	100
Small tree	200

The categories of replacement trees are described in greater detail in subsection (6)f. In the event that a replacement tree actually has more canopy coverage at the time of planting than the amount of credit allowed under the table above, then the applicant shall receive full credit for the canopy coverage provided by the replacement tree at the time of planting and will not have to provide replacement trees in the 2:1 ratio.

The applicant shall submit a list of proposed replacement trees on a form provided by the Administrative Official, except that when the total number of replacement trees exceeds 20, or when 10,000 square feet of canopy replacement is required, the applicant shall submit a landscape replacement plan consistent with the provisions of the landscape regulations set forth in subsection (7) below. Proposed replacement lists or plans are subject to Administrative Official approval. The Administrative Official shall approve

proposed replacement trees that are consistent with the standards of these tree regulations.

- d. *Step 4: Location of replacement trees.* Specific placement of replacement trees on-site shall be determined by the applicant. If the site cannot accommodate the required replacement trees because of insufficient planting area as determined by the Administrative Official, then the applicant shall be required to plant replacement trees at an off-site location subject to the Administrative Official's approval, or, as an alternative, shall provide an equitable contribution to the Village Tree Trust Fund to compensate for those replacement trees which cannot be accommodated on-site.
- e. *Step 5: Minimum species diversity standards.* When more than ten trees are required to be planted in accordance with the provisions of these regulations, a diversity of species shall be required. The number of species to be planted shall be based on the overall number of trees required. The applicant shall be required to meet the following minimum diversity standards:

Required Number of Trees  
Minimum Number of Species

11—20	2
21—50	4
over 50	6

Permittees shall not be required to plant in excess of six species. The number of trees of each species planted shall be proportional to the number of species required. A minimum of ~~50~~ 60 percent of all replacement trees planted shall be native to the county, and no more than 30 percent of the replacement trees shall be palms. However, when native trees are removed, all replacement trees shall be native species. As an alternative to the minimum species diversity required herein, an applicant may propose an alternative species diversity in an alternative landscape enhancement plan described in these tree regulations.

- f. *Step 6: Minimum standards for replacement trees.*
  1. All replacement trees shall have a minimum quality of a Florida No. 1 grade or better.
  2. The Administrative Official shall maintain a list of species for each category of replacement tree. This list may be amended from time to time, as necessary. Replacement tree heights shall be determined by overall height measured from where the tree meets the ground to the top-most branch.

- (i) All category 1 replacement shade trees shall be a minimum of 14 feet in height at the time of planting and at maturity should have a canopy coverage of 500 square feet under normal growing conditions.
  - (ii) All category 2 replacement shade trees shall be a minimum of 12 feet in height at the time of planting and at maturity should have a canopy coverage of 300 square feet under normal growing conditions.
  - (iii) All category 1 replacement palm trees shall have a minimum height of ten feet at the time of planting and at maturity should have a canopy coverage of 300 square feet under normal growing conditions.
  - (iv) All category 2 replacement palm trees shall have a minimum height of three feet at the time of planting and at maturity should have a canopy coverage of 100 square feet under normal growing conditions.
  - (v) All replacement small trees shall have a minimum height of six feet at the time of planting and at maturity should have a canopy coverage of 200 square feet under normal growing conditions.
- (7) *Requirements for a landscape replacement plan.* A landscape replacement plan shall be submitted to the Administrative Official by the permit applicant when a minimum of 10,000 square feet of replacement canopy are required. All landscape replacement plans shall meet the following minimum standards:
- a. *Number, species, and size of trees.* The number of trees, number of species of trees, and size of trees proposed for planting shall be consistent with provisions of these regulations.
  - b. *Site plan.* The applicant shall submit a site plan that includes the proposed replacement locations of all replacement plantings and tree relocations, all property lines, and all proposed and existing structures, driveways and utility casements.
  - c. *Canopy.* The canopy spread of any tree that is proposed for preservation shall be shown on the plan. Where a portion of the canopy of a tree or trees will be removed without removal of the trees, a notation shall be made on the plan.
- (8) *Tree protection requirements during construction.*
- a. *Protection requirements.* During site development, protection requirements for trees designated for preservation under an approved tree removal permit shall include, but not be limited to, the following:
    - 1. Protective barriers shall be placed around each tree, cluster of trees, or the edge of the preservation area no less than six feet (in radius) from the trunk of any protected tree cluster, or preservation area unless a lesser distance is specified by the Administrative Official. Protective barriers shall be a minimum of four feet above ground level and shall be constructed of wood, plastic or metal, and shall remain in place until development is completed and the Administrative Official has authorized their removal. Protective barriers shall be in place prior to the start of any construction.
    - 2. Understory plants within protective barriers shall be protected.
    - 3. No excess oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by protective barriers, nor shall there be disposal of any

waste material such as paints, oils, solvents, asphalt, concrete, mortar or any other material harmful to trees or understory plants within the areas surrounded by protective barriers.

4. Trees shall be braced in such a fashion as to not scar, penetrate, perforate or otherwise inflict damage to the tree.
  5. Natural grade shall be maintained within protective barriers. In the event that the natural grade of the site is changed as a result of site development such that the safety of the tree may be endangered, tree wells or retaining walls are required.
  6. Underground utility lines shall be placed outside the areas surrounded by protective barriers. If said placement is not possible, disturbance shall be minimized by using techniques such as tunneling or overhead utility lines.
  7. Fences and walls shall be constructed to avoid disturbance to any protected tree. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major roots.
- b. *Replacement.* If these tree protection regulations are not adhered to by the permittee and the trees are effectively destroyed, then all such trees shall be replaced according to the standards of these regulations, in addition to being subject to the penalty provisions of the Code.
- (9) *Tree relocation standards.* The relocation of any tree subject to the provisions of these regulations shall be consistent with the minimum standards of the American National Standards Institute (ANSI) and the tree relocation standards promulgated by the county department of environmental resources and management.
- (10) *Permit issuance.*
- a. *Issuance.* The Administrative Official shall deny an application or approve an application and issue a permit (subject to conditions, limitations or restrictions), for the activity proposed under the permit application, provided:
    1. The required application fee and permit fee are submitted to the Village.
    2. A performance bond, if required, has been posted. As a condition of issuing a tree removal permit, the Administrative Official may require the posting of a performance bond, which shall be equivalent to 100 percent of the estimated cost of the permitted activity and may be in the form of a letter of credit, surety, cash, or certificate of deposit. All performance bonds shall remain in force for a minimum of either one year after the actual completion date of the permitted activity to ensure that any replanted trees which perish are replaced, or until viability of all replanted trees has been achieved, whichever occurs last. However, at the discretion of the Administrative Official, performance bonds may be partially released in phases based upon partial completion of planting or other permit requirements.
    3. All required plans or covenants are submitted and are in compliance with the standards herein.
  - b. *Incomplete permit applications.* All tree removal permit applications which remain incomplete for a period of 120 days shall be denied. A new tree removal permit

application shall be required for all work previously proposed under a permit application which has been denied.

(11) *Continuance of official documents.* The natural forest community maps approved by the County Board of County Commissioners on December 12, 1984, by Resolution No. 1764-84; all tree removal permits issued pursuant to Chapter 26B of the Code of Miami-Dade County; administrative approvals; and all consent agreements executed in order to resolve alleged violations of Chapter 26B of the Code of Miami-Dade County, Florida, are hereby confirmed and shall remain in full force and effect, and all conditions, restrictions and limitations contained therein shall continue to apply, and compliance therewith shall be enforceable pursuant to the provisions of this these tree regulations.

(12) *Tree trust fund.*

a. *Creation of the tree trust fund.* There is hereby created a Village Tree Trust Fund, the purpose of which is to acquire, protect and maintain natural forest communities in the Village and to plant trees on public property. All fines and penalties for violations of these regulations shall be paid into the tree trust fund.

b. *Disbursement and maintenance of the tree trust fund.* Monies obtained for the tree trust fund shall be disbursed for the acquisition, maintenance, management and protection of the natural vegetative environment in the Village, or for planting trees on public property. Disbursement from the tree trust fund shall require approval by resolution of Village Commission, provided, however, that any funds received pursuant to the conditions of any tree removal permit shall be used as required by the permit conditions without the necessity of approval, appropriation, or action of any kind by the Village Commission. The Village Manager is hereby authorized to receive and disburse monies in accordance with this provision.

(13) *Permit fees.* The Village shall charge and collect application, permit and tree trust fund contributions at the rates established by separate resolution approved by the Village Commission. Applications from government agencies for tree removals in areas dedicated to public use may, at the discretion of the Administrative Official, be exempted from application fees and permit fees.

(14) *Penalties for violation of tree regulations.* The following penalties shall be assessed where these tree regulations would not have permitted trees to be removed and they have been effectively destroyed or removed in violation of these regulations. The contractor committing the violation will also be cited via a uniform civil violation notice if observed by staff or if the property owner/violator has records that identify the contractor and can provide sufficient evidence to identify the person or company who committed the violation.

a. *First offense with no prior knowledge.* Per tree and double the amount of canopy replacement required by code:

Less than 18-inch diameter at four-foot height .....\$500.00

18 inches to 36 inches .....2,000.00

Greater than 36 inches .....3,000.00

- b. *Second offense or prior knowledge.* Double the fines required for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by code if a permit had been issued.
- c. *Subsequent offenses.* Triple the fine required for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by Code if a permit had been issued.

(Ord. No. 2005-14, § 1, 11-8-05)

§ 100.02 - Prevention of storm damage.

- (A) *Hurricane watch; restriction on placement of landscaping debris.* Once an official hurricane watch is issued by the National Weather Service for an area which includes the Village, no person shall place any yard waste including, but not limited to, vegetative clippings, trees, palm fronds, leaves, branches or any other vegetative debris (the "landscape debris") on any portion of the public right of way or upon any land within ten feet of the public right-of-way, unless instructed to do so by the Village Manager. This shall not prohibit the temporary placement of landscape debris on the swale area adjacent to the parcel which produced such landscape debris for pick up by a licensed private hauler, so long as such pick up and removal is fully accomplished prior to the issuance by the National Weather Service of an official hurricane warning and in any event is completed by the private hauler prior to the occurrence of the anticipated storm event and at the private property owner's sole cost and expense.
- (B) *Removal of certain exotic plants and trees for new construction.* From and after the date of adoption of this ordinance, any person owning or controlling (the "responsible person") real property upon which there exists any of the exotic species of vegetation ("exotics") listed in section 2(e)2 herein shall cause the removal and disposal of said exotics prior to obtaining a building permit for the construction of any new single family or duplex residence upon said property. As to any such property for which there exists at the time of adoption of this section an active building permit for the construction of a new single family or duplex residence upon such property, the exotics shall be removed by the responsible person prior to the issuance of a certificate of occupancy. The requirements of this section shall be applicable regardless of whether the exotics were planted or established before, on or after the date of adoption of this chapter. Nothing herein shall be construed to authorize the planting of exotics.
- (C) *Protection of electric power lines.* Each person owning or controlling real property within the Village shall cause all landscaping situated upon such real property, including, but not limited to, trees, branches, palm fronds, vines, bushes and any other vegetative matter, to be maintained and trimmed so that no trees, branches, palm fronds, vines, bushes or other vegetative matter shall be situated at any point any closer than six feet to any energized electric transmission or electric service line. In the event that a person owning or controlling such real property does not timely cause the landscaping to be maintained and trimmed as described above within seven days after having received a written demand from the Village to do so, the Village Manager shall be authorized to arrange for Village employees or contractors to perform such work. Village shall have a lien, in the nature of a special assessment, upon the property for the purpose of securing full reimbursement to the Village for all costs incurred for said work, and may record and enforce said lien to the fullest extent authorized by law. The procedures applicable to the enforcement and

collection of said lien shall be the same as those which are authorized for solid waste collection service liens pursuant to Village Code.

(D) *Hazardous conditions.* A hazardous condition is deemed to exist when:

1. The affected utility company has determined that a particular plant/tree on private property is interfering with, disrupting, impeding, altering, preventing, the delivery of utility services; and
2. The utility company has given the property owner(s) and the Village written notice that a particular plant/tree is interfering with, disrupting, impeding, altering, or preventing the delivery of utility services; and
3. The Village Manager or his designee concurs with the utility company's decision that a particular plant/tree is interfering with disrupting, impeding, altering, or preventing, the delivery of utility services; and
4. The Village through Code Compliance Officer or Police Officer, subsequently requests permission for the utility company to come onto the property; and
5. The property owner continues to refuse to allow entry to the property, or otherwise impedes the ability of the utility company to prune or remove the offending plant/tree, when deemed necessary by the utility company for the safe and reliable delivery of utility services.

(E) *Penalty.* Any person who violates any provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$500.00 or imprisonment in the county jail not to exceed 60 days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation. This chapter shall be subject to enforcement under the Local Government Code Enforcement Act, F.S. Ch. 162, as amended. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

(Ord. No. 2005-14, § 1, 11-8-05)