

**ORDINANCE NO. 08-14**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" ARTICLE VI "SIGNS" IN ORDER TO REVISE THE PROCEDURAL AND SUBSTANTIVE REGULATIONS OF SIGNS IN THE TOWN AND PROVIDE FOR AMORTIZATION OF CERTAIN TYPES OF NONCONFORMING OR PROHIBITED SIGNS; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council finds and determines that the Town's sign regulations are intended to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, while meeting the need for signage that clearly identifies locations, advertises businesses, and otherwise communicates commercial and noncommercial messages; and

**WHEREAS**, sign regulation to advance the governmental purpose of aesthetics has long been upheld by the state and federal courts; and

**WHEREAS**, the U.S. Supreme Court recognized that "the concept of the public welfare is broad and inclusive", in *Berman v. Parker*, 348 U.S. 26, 33 (1954), which was followed by *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980); and

**WHEREAS**, sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Ass'n of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and

**WHEREAS**, the Town Council finds and determines that the Town's land development regulations are required to regulate signs as provided by Section 163.3202(2)(f), Florida Statutes; and

**WHEREAS**, the Town Council finds and determines that this Ordinance is consistent with all applicable policies of the Miami-Dade County Comprehensive Plan; and

**WHEREAS**, the Town Council desires to provide for the free expression of its residents, as required by *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), by allowing one permanent noncommercial sign per dwelling unit to be posted in any zoning district which permits residential use, in addition to any other permitted signs; and

**WHEREAS**, the Town Council desires to effectuate a prohibition on certain types of signs in order to promote the public health, safety and welfare of the Town's residents; and

**WHEREAS**, the Town Council, to ensure the protection of property rights in connection with signs determined to be non-conforming with this Ordinance, desires to implement a reasonable amortization period for the removal of v-shaped point of sale signs, pole signs, and signs including exposed or visible neon light tubing, with the exception of window signs; and

**WHEREAS**, local ordinances requiring the removal of prohibited signs through the use of a reasonable amortization period have been upheld as constitutional by numerous courts in cases including, but not limited to, *Lamar Advertising Associates of East Florida, Ltd. v. City of Daytona Beach*, 450 So.2d 1145 (Fla. App. 5 Dist. 1984); *Art Neon Co. v. Denver*, 488 F.2d 118 (10<sup>th</sup> Cir. 1973); *Outdoor Graphics v. City of Burlington, Iowa*, 103 F.3d 690 (8th Cir. 1996); *Georgia Outdoor Advertising v. City of Waynesville*, 900 F.2d 783 (4th Cir. 1990); and *Naegele Outdoor Advertising, Inc. v. City of Durham*, 803 F. Supp. 1068 (M.D. North Carolina 1992); and

**WHEREAS**, the Town Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed meeting on June 18, 2008, and recommended its adoption; and

**WHEREAS**, the Town Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS<sup>1</sup>:**

**Section 1. Recitals Adopted.** That the recitals set forth above are true and correct and incorporated herein by this reference.

**Section 2. Amendment to Chapter 33 of the Town Code.** The Town Council hereby amends Chapter 33 "Zoning," Article VI "Signs" as follows:

**DIVISION 1. TITLE, APPLICABILITY, PURPOSE AND DEFINITIONS**

Sec. 33-82. Short title and applicability.

This article shall be known as the "Sign Code of the Town of Cutler Bay, Florida" and shall be applicable in the incorporated areas of the Town of Cutler Bay.

Sec. 33-83. Scope, Purpose, Substitution and Severability.

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

(a) *Purpose.* The purpose of this article is to permit signs that will not, because of size, location, method of construction and installation, or manner of display:

- (1) Endanger the public safety; or
- (2) Create distractions that may jeopardize pedestrian or vehicular traffic safety; or
- (3) Mislead, confuse, or obstruct the vision of people seeking to locate or identify uses or premises; or
- (4) Destroy or impair aesthetic or visual qualities of the Town which is so essential to tourism and the general welfare; and

The purpose of this article is also to permit, regulate and encourage the use of signs with a scale, graphic character, and type of lighting compatible with buildings and uses in the area, so as to support and complement land use objectives as set forth in the Growth Management Future Land Use Plan. It shall be further the purpose of this article to promote the aesthetics, safety, health, and general welfare and the assured protection of adequate light and air within the Town by regulation of the general posting, displaying, erection, use, and maintenance of signs. In the event of any conflict between this code and any declaration of covenants, bylaws, or other restrictions applying to any property within the town, the language affording the more restrictive interpretation shall apply.

(b) *Scope.* The provisions of this article shall govern the number, size, location, and character of all signs which may be permitted either as a main or accessory use under the terms of this article. No signs shall be permitted on a plot or parcel either as a main or accessory use except in accordance with the provisions of this article.

(c) *Substitution of Noncommercial Speech for Commercial Speech.* Notwithstanding any provisions of this article to the contrary, to the extent that this article permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial messages, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited, and the sign continues to comply with all requirements of this article.

(d) *Severability.*

(1) *Generally.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article.

(2) *Severability where less speech results.* This subsection (2) shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provisions in the code of ordinances or any adopting ordinance. The town council specifically intends that severability shall be applied to these regulations even if the result would be to allow less speech in the town, whether by subjecting currently exempt signs to permitting or by some other means.

(3) *Severability of provisions pertaining to prohibited signs.* This subsection (3) shall not be interpreted to limit the effect of subsection (1) above, or any

other applicable severability provisions in the code of ordinances or any adopting ordinance. The town council specifically intends that severability shall be applied to section 33-95, entitled “Prohibited signs,” so that each of the prohibited sign types listed in that section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.

(4) *Severability of prohibition on off-premises signs.* This subsection (4) shall not be interpreted to limit the effect of subsection (1) above, or any other applicable severability provisions in the code of ordinances or any adopting ordinance. If any or all of this article or any other provision of the town’s code of ordinances is declared unconstitutional or invalid by the final and valid judgment of any court of competent jurisdiction, the town council specifically intends that that declaration shall not affect the prohibition of off-premises signs in Section 33-95(k).

#### Sec. 33-84. Definitions.

For the purposes of this article the following words and phrases are hereby defined as provided in this section, unless the context clearly indicates otherwise. Where there is a question as to the correct classification or definition of a sign, it shall be the prerogative of the Director to place said sign in the strictest category and/or classification.

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*Animated sign:* A sign that uses movement, change of lighting or change of color to depict action or create a special effect or scene. Also, a sign or device visible from the public right-of-way with letters or characters that move or change more frequently than every six (6) seconds.

*Attached sign:* A sign which is attached to or supported by a building, wall, or other structure. The definition of “attached sign” shall not include a sign painted directly on the wall face of a building or structure.

*Automatic electric changing sign (“ACS”):* Any electrical or electronically controlled sign where different messages or copy changes are shown, including tri-vision panels. Also, any sign, or portions of a sign, where any light source, including but not limited to incandescent bulbs or light-emitting diodes (LEDs), constitutes the sign text or image. This type of sign includes, but is not limited to electronic message boards; television screens; plasma screens; digital screens; flat screens; LED screens; video boards; other types of electric and electronic display boards and screens; and holographic displays.

*Awning, canopy, roller curtain or umbrella sign:* Any sign stamped, perforated, or stitched on the surface area of an awning, canopy, roller curtain or umbrella.

*Cantilever:* That portion of a building, projecting horizontally, whether it be on the same plane as the roof line or not.

*Cantilever sign:* Any sign which is mounted on a cantilever. No cantilever sign may extend beyond the cantilever.

*Changeable copy sign (manual)* shall mean any sign displaying a message which can be changed by hand through the use of removable characters.

*Class A (temporary signs):* Any sign(s) to be erected on a temporary basis, such as signs advertising the sale or rental of the premises on which located; signs advertising a

subdivision of property; signs advertising construction actually being done on the premises on which the sign is located; signs advertising future construction to be done on the premises on which located, and special events, such as carnivals, concerts, public meetings, sporting events, political campaigns or events of a similar nature.

*Class B (point of sale sign):* Any sign advertising or designating the use, occupant of the premises, or merchandise and products sold on the premises, shall be deemed to be a point of sale sign (class B) and shall be located on the same premises whereon such is situated or the products sold.

*Class C (commercial advertising signs):* Any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name of business carried on the premises, or for advertising any service or product or products actually and actively being offered for sale on the premises, or which is designed and displayed solely to offer for sale or rent the premises or to advertise construction being done, or proposed to be done, on the premises, or advertising special events approved by the Department shall constitute a class C sign.

Class C signs may be in the form of a billboard, bulletin board, or poster board, or may be affixed flat to a building or painted thereon.

*Detached sign:* Any sign not attached to or painted on a building, but which is affixed and permanently attached to the ground and which is not a monument sign as defined herein. "Permanently attached" as used herein shall mean that the supporting structure of the sign is attached to the ground by a concrete foundation or other support anchored in the ground.

*Director:* The Planning Director or his qualified designee.

*Directional sign:* A sign which guides or directs the public and contains no advertising. The name of the facility (such as store name), which the sign is giving direction to, may be included when specified conditions in the Code are complied with.

*Entrance features:* Any combination of decorative structures and landscape elements located at the entrance to a development, which identifies or draws attention to the development and/or exercises control of ingress and egress to the development. An entrance feature may include, although not necessarily be limited to, ornamental walls, fences, identifying lettering, logos, works of art, and other decorative structures, earthworks, water bodies, fountains, trees, plantings, and other landscape elements, as well as gatehouses, either singly or in any combination thereof.

*Flag:* A piece of fabric with a color or pattern representing a government or other organization, entity, or idea.

*Flat sign:* Any sign attached to and erected parallel to the face of, or erected or painted on the outside wall of any building, and supported throughout its length by such wall or building.

*Freestanding sign:* Any sign not painted or mounted on a building, fence, or wall.

*Marquee:* A covered structure projecting from, and supported by the building with independent roof and drainage provisions, and which is erected over a doorway or entranceway as protection against the weather.

*Marquee sign:* Any sign attached to or hung from a marquee.

*Monument sign:* A freestanding, self-supported structure of solid construction, not attached or affixed in any way to a building or any other primary structure, and with

concealed means of support that is built into the ground that could not be construed to be a pole sign.

*Multifamily office sign:* A sign identifying the location of the management office of a multifamily residential property.

*Multi-tenant center:* Any shopping center, office center or business center in which two (2) or more occupancies abut each other or share common parking facilities or driveways or are otherwise related.

*Noncommercial sign:* A sign containing only noncommercial copy. "Noncommercial" shall mean not-for-profit or commercial gain. Regardless of the content of the copy, a noncommercial sign shall not be construed to be an off-premises sign.

*Non-conforming sign:* A sign located within the town limits on the effective date of this code or existing in an area annexed by the town after the effective date of this code (or amendments hereto) which, by its height, type, area, design, colors, materials, location, use, or structural support, conformed to the town code prior to the effective date of this ordinance, but does not conform to the requirements of this code. This shall include signs that had been granted variances that were approved, and signs that were issued a construction permit by the Town of Cutler Bay or Miami-Dade County prior to the effective date of this ordinance.

*Off-premises sign:* A sign that directs attention to a commercial business, commodity, service, product, or activity not conducted, sold, offered, or available on the premises where such sign is located, the copy of which may be intended to be changed periodically. An off-premises sign is the principal use of the property on which it is located. It may also be referred to as a "billboard." This definition includes a sign displayed on a trailer or the bed of a truck that advertises something other than the identity of the truck, the driver or its contents.

*On-premises sign:* A sign that is located on the premises of the occupant, business, or property identified on the sign. The occupant, business, or property is the principal use of the property, and the sign is an accessory use of the property on which it is located.

*Point of sale sign:* Any sign advertising or designating the use, occupant of the premises, or merchandise or products sold on the premises.

*Pole sign:* A sign erected upon a pole, poles, post, or "pole-like" structure that is visible and wholly independent of any building or structure for support.

*Portable sign:* Any sign not attached to or painted on a building and not affixed or permanently attached to the ground.

*Projecting sign:* Any sign which is an independent structure, which is attached to the building wall, and which extends at any angle from the face of the wall. No projecting sign shall extend above the roof or parapet wall in any residential district.

*Pylon:* A vertical extension of a building, constructed integrally and concurrently with the building, or in connection with a major remodeling or alteration of a building. To classify as a pylon for sign purposes, the pylon structure must be an integral part of the building structure, extending to ground level.

*Pylon sign:* A flat sign attached to the face of a pylon. The outer edge of the sign shall not extend beyond the pylon nor above the roof line.

*Roof sign:* Any sign which is fastened to, or supported by the roof or erected over the roof.



*Semaphore:* Any sign consisting of two (2) dual-face signs extending horizontally from a light standard. Such sign must project from opposite sides of such light standard, and must be located in the parking lot of a shopping center to identify the location of parking areas. No advertising is permitted on the sign.

*Shopping center:* An area with at least two hundred fifty (250) feet of street frontage zoned for retail purposes under one (1) application and under one (1) ownership, and with at least two (2) tiers of parking, two (2) or more retail uses, which is subject to site plan or plot use approval as a condition of the applicable resolution or ordinance.

*Sign:* A device or representation for visual communication that is used for the purpose of making something known. Signs include, but are not limited to, figures, letters, logos, devices, flags, pennants, emblems, and pictures.

*Temporary sign:* Any sign to be displayed for a limited period of time. Temporary signs include signs capable of being mounted on the ground through use of supports made of wood, plastic, or metal, or leaned or affixed to a structure or similar object, hand-carried signs, temporary portable signs as defined herein, but shall not include bumper stickers placed on vehicle bumpers.

*Town public information sign:* An automatic electric changing sign erected by the Town, on Town property, for the purpose of providing noncommercial public information and announcements of Town-sponsored meetings, events, advisories, and activities.

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

*Wall:* As used in this article, that portion of the building's exterior, horizontal surface on the same plane, regardless of vertical or horizontal indentations, and including the surface of parapets and pylons projecting from the building. A plane is defined, for purposes of this chapter, as a continuous architectural façade which may include projections and/or recesses.

*Wall sign:* Any sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of, the outside wall of any building and supported by such wall or building and which displays only one (1) advertising surface.

*Window sign:* A sign located on the inside of a window or within a building or other enclosed structure, where the sign face is visible and legible from the exterior through a window or other opening.

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## DIVISION 2. GENERAL PROVISIONS

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Sec. 33-86. Permits required.

(a) *Applications and permits.* No sign shall be erected, constructed, posted, painted, altered, maintained, or relocated, except as provided in this section and until a permit has been issued by the Community Development Department (Department). Before any permit is issued, an application for such permit shall be filed together with sets of drawings and/or specifications one (1) original set and two (2) sets of copies) as may be necessary to fully describe the location, method of construction, type of materials, manner of illumination, method of erection, securing or fastening, number and type of

signs applied for, and advertisement to be carried. All signs which are electrically illuminated shall require a separate electric permit and inspection. Each application for a sign permit shall be presented on the forms supplied by the Department and shall specifically include the following information:

- (1) Location;
- (2) Construction;
- (3) Materials;
- (4) Manner of illumination;
- (5) Method of securing or fastening;
- (6) Number of signs applied for;
- (7) Wording of the sign;
- (8) Dimensions of the sign;
- (9) Dimensions of the individual letters and logos;
- (10) Photograph of all existing signs for the business; and
- (11) Photograph of all existing signs on the building.

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(c) *Calculating number of signs.* A single sign containing advertisement on each side shall be counted as one (1) sign. Every other sign shall be counted as a separate sign for each face thereof.

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(e) *Submission and review.* Upon the submission of an application for a sign permit and the applicable fee, Department staff shall have ten (10) business days to determine whether the application is complete. If staff finds that the application is not complete, staff shall provide the applicant with written notice of the application's deficiencies within the ten (10) day period. Upon resubmission of the application, staff shall have five (5) additional business days to determine whether the applicant's revisions are sufficient to complete the application. If they are not, staff will again inform the applicant of any remaining deficiencies in writing. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed "as is."

(f) *Approval or denial.* The Department shall approve or deny the sign permit based on whether it complies with the requirements of this article. The Department shall approve or deny the sign permit within thirty (30) business days after receipt of a complete application. The Department shall prepare a written notice of its decision, describing the applicant's appeal rights, and send it by certified mail, return receipt requested, to the applicant. The applicant may file a written notice of appeal to the Town Council within fifteen (15) business days after the date of receipt of the Town's written notice of decision. The Town Council shall hear the appeal at the next available Council meeting that is at least twenty-five (25) business days after the date of receiving the written notice of appeal. If the Town Council does not grant the appeal, then the appellant may seek relief in the Circuit Court for Miami-Dade County, as provided by law.



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Sec. 33-94. Signs permitted without a sign permit.

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(g) Flags, as displayed in accordance with Section 33-96.5.

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Sec. 33-95. Prohibited signs.

(f) Blinking or flashing lights, streamer lights, pennants, banners, streamers, balloons, and all fluttering, spinning or other type of attention attractors or advertising devices are prohibited. During recognized holiday periods such attention-attractors that pertain to such holiday periods may be displayed on a temporary basis during such periods. The flags permitted by this article shall not be used in mass in order to circumvent this subsection by using said flags primarily as an advertising device.

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k. Except for non-conforming signs, off-premises signs or billboard signs are prohibited in the town. Any off-premises sign or billboard sign erected after the effective date of this article as amended shall be removed at the sole expense of the sign owner and shall be subject to code enforcement proceedings as provided in the town code.

l. Attached and freestanding signs including exposed or visible neon light tubing.

m. V-shaped point of sale signs.

n. Animated signs.

o. Painted freestanding or attached signs.

p. Pole signs.

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Sec. 33-96.1. Automatic electric changing signs.

Subject to the following mandatory conditions, Automatic Electric Changing Signs ("ACS"), shall be permitted only in BU districts, or located on property owned by the Town as a Town public information sign, as follows:

(a) An ACS may be incorporated into Class B (Point of Sale) signs only, and shall not increase the maximum display area permitted. The sign area of any ACS located within a BU district shall not exceed 55 square feet.

(b) An ACS shall conform to all sign size, placement, setback, and quantity limitations as provided elsewhere in this chapter and shall comply with all building code requirements.

(c) The maximum brightness of an ACS shall not exceed illumination of 3,500 nits (candelas per square meter) during daylight hours, nor 750 nits between dusk to dawn, as measured by applying a spectroradiometer (light meter) directly to the sign face. The ACS must be equipped with an automatic dimmer control to produce a distinct

illumination change from a higher illumination level to a lower level for the time period between one half hour before sunset to one half hour before sunrise.

(d) The following operating modes are prohibited:

(1) Flash -- the condition created by displaying the same message intermittently by turning it on and off, on and off, with rapidity, or any other delivery mode that creates a flashing effect. The copy on messages may not move or appear to move. A change of message may occur at no more than six-second intervals.

(2) Zoom -- the look or condition created by expanding a message from a central point to its full size.

(3) Any signs which use the word "stop" or "danger" or imply the need or requirement of stopping, or which are copies or imitations of official signs.

(4) Red, green or amber (or any color combination thereof) revolving or flashing light giving the impression of a police or caution light shall be prohibited.

(e) With the exception of a Town public information sign on Town-owned property, an ACS shall be limited to locations only on a major or minor roadway as depicted on the adopted Growth Management Future Land Use Plan Map.

(f) A freestanding ACS shall be of a monument type and shall comply with the sign height and size regulations for monument signs within the BU district.

(g) The applicant for an ACS shall file a declaration of use, on a form prescribed and approved by the Director, which will govern the operation of the ACS and contain penalties for abatement and removal of the ACS for violations of the declaration of use and the provisions herein.

#### Sec. 33-5.1. Relocation of Nonconforming Off-Premises or Billboard Signs

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##### (B) Relocation Procedures.

(1) A certificate to relocate an existing nonconforming off-premises or billboard sign shall be issued by the planning director to the owner of that sign upon documentation of the following:

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(2) The sign owner may hold the certificate, or redeem it for a building permit to construct a new off-premises or billboard sign at the relocated site. A relocated off-premises or billboard sign shall not be affixed to or painted directly on the wall of any building or structure.

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#### Sec. 33-96.2. Manual Changeable Copy Signs

Manual changeable copy signs shall be permitted within permissible monument signage in accordance with the following requirements:

| <i>Type</i> | <i>of</i> | <i>Size</i> | <i>Number</i> | <i>Setback and</i> | <i>Illumination</i> | <i>Maximum</i> | <i>Special</i> |
|-------------|-----------|-------------|---------------|--------------------|---------------------|----------------|----------------|
|-------------|-----------|-------------|---------------|--------------------|---------------------|----------------|----------------|

| <i>Signs</i>                 |  |              | <i>Spacing</i>  |  | <i>Height</i>  | <i>Conditions</i>  |
|------------------------------|--|--------------|---|--|--|--|
| Manual<br>Changeable<br>Copy | Must<br>comply<br>with the<br>applic-<br>able<br>size<br>restrict-<br>ions for<br>monum-<br>ent signs<br>within<br>the<br>district | 1 per parcel | Must<br>comply<br>with the<br>applicable<br>district<br>setback<br>restrictions<br>for<br>monument<br>signs | Permitted in<br>accordance<br>with applic-<br>able district<br>standards;<br>see general<br>provision on<br>illumination | Must<br>comply<br>with the<br>applicable<br>district<br>height<br>restrict-<br>ions for<br>monument<br>signs | Permissible<br>for drive-<br>through<br>restaurants,<br>places of<br>public<br>assembly<br>and worship,<br>educational<br>facilities,<br>and gasoline<br>service<br>stations<br>only. Manual<br>changeable<br>copy signs<br>must be<br>incorporated<br>into a<br>monument<br>sign and<br>shall<br>comply with<br>the size and<br>height<br>restrictions<br>of the<br>applicable<br>zoning<br>district. |

Sec. 33-96.3. Monument sign construction and landscaping.

a. Solid CBS and stucco construction is required for all permanent monument signs. Structural components shall not be covered by a material that is high gloss, reflective, or illuminated. The solid ground-mounted base of a monument sign shall be equal to or greater than the length of the sign face.

b. If a monument sign is not placed in an area of required landscaping, a planting bed at least two (2) feet in width shall surround the sign. This bed shall contain shrubs and supplemental ground cover, and shall be shown on the site plan. If the base of the sign is less than thirty (30) inches wide, the landscaping must be equal to the height of the base, subject to approval by the Planning Director. In no case shall the planting be less than eighteen (18) inches in height.

c. An application for a monument sign shall include an accurate and up-to-date survey of the property indicating the lot dimensions, the proposed location of the sign with all setbacks to property lines, and a landscaping plan, if required.

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Sec. 33-96.4. Master sign plan.

a. A uniform signage plan shall be required for all multitenant centers. The uniform signage plan shall address the design characteristics, size, location, type, and number of signs. The uniform signage plan shall be considered and approved in conjunction with the site plan for the development, and shall apply to all signs to be displayed within the development. Logos of individual establishments, and nationally or state-registered trademark lettering, are exempt except for dimensional requirements.

b. Where new or replacement signage is proposed for existing multitenant centers, the Director shall establish a sign plan that will be implemented for each replacement sign in the development. Once the criteria has been established for a multitenant center, the criteria shall apply to the entire center, as well as each individual occupant, and shall remain as long as the center exists, regardless of change of ownership or management. The criteria may only be changed if all signs in the development are changed to conform to the new criteria which is approved by the Director.

c. Written consent to the plans and criteria must be provided by the owner of the building, structure or land to which or on which the sign structure is to be erected, relocated, maintained or altered.

Sec. 33-96.5. Flag display standards.

(a) *Maximum height.* Except as otherwise provided herein, flags shall be displayed on flag poles. Such poles in nonresidential zoning districts shall not exceed the allowed structure height of the zoning district or 60 feet, whichever is less. Flagpoles may not be placed on top of buildings or light poles. Flagpoles in residential districts shall not exceed 20 feet.

(b) *Maximum number and size.*

(1) The maximum dimensions of any flag shall be proportional to the flag pole height. The hoist side of the flag shall not exceed 20% of the vertical height of the pole. In addition, flags are subject to the following dimensional limitations:

| Pole  | Height  | Maximum | Flag         | Size |
|-------|---------|---------|--------------|------|
| Up to | 25 feet | 24      | total square | feet |
| 25 to | 39 feet | 40      | total square | feet |
| 40 to | 49 feet | 60      | total square | feet |
| 50 to | 60 feet | 150     | total square | feet |

- (2) Each property shall be allowed a maximum of three (3) flag poles. A maximum of two flags shall be allowed per flag pole. References to flagpole height in this division refer to vertical flagpoles. References to the number of flags and flag poles and flag dimensions refer to both vertical flagpoles and mast-arm flagpoles (for example, staffs extending at an angle from a building). On United States and Florida holidays, there shall be no maximum flag size or number or other limitations on manner of display.
- (c) *Flags on permanent fixtures other than poles.* Flags that are attached to the side of a structure without a pole shall not, individually or cumulatively, cover more than the greater of 24 square feet or 10% of the facade of the structure on which the flag is mounted. One flag is permitted on up to two building facades.
- (d) *Setback.* A vertical flag pole must be set back at least 5 feet from all property boundaries.
- (e) *Condition of flag and pole or other permanent mounting.* The flag and flag pole or other permanent mounting shall be maintained in good repair. Flag poles with broken halyards shall not be used, and torn or frayed flags shall not be displayed.
- (f) *Use of flags as attention-attractors prohibited.* The placement of flags upon merchandise or structures to draw the public's attention to such items shall be considered to render such flags prohibited "attention attractors" pursuant to Section 33-95(f) of the Code.

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### DIVISION 3. SIGN STANDARDS REQUIREMENTS AND CHARTS

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Sec. 33-99. Class A temporary signs.

Type of signs permitted: Real estate; subdivision; construction; future construction; special events.

| <i>Type of Signs</i> | <i>Size</i>  | <i>Number</i> | <i>Setback and Spacing</i>  | <i>Illumination</i>                                | <i>Maximum Height</i>   | <i>Special Conditions</i>   |
|----------------------|--|---------------|---|--|---|---|
| Real estate          | Real estate signs in an AU/GU District (not of a residential character) and all BU | 1 sign only   | Real estate signs shall be no closer than 5 feet to an official r.o.w. line | Permitted<br>See general provision on illumination | Real estate signs in AU/GU District (not of a residential character) and all BU | No permit required for signs that are no larger than 6 square feet and which are not electrically illuminated |

|  |  |  |  |  |   |   |
|--|--|--|--|--|---|---|
|  | <p>and IU Zones shall be limited to 40 square feet</p> <p>Real estate signs in AU and GU Districts (of a residential character) and RU EU District shall be limited to 4 square feet</p> |  |  |  | <p>and IU Zones shall not exceed 10 feet measured from grade to top of sign. Real estate signs in AU and GU Districts (of a residential character) and RU EU District shall not exceed 5 feet measured from grade to top of sign.</p> | <p>Real estate signs shall only be permitted on premises advertised for rent or for sale</p> <p>A real estate sign used to advertise a single parcel, dwelling unit, or commercial space shall be posted no earlier than the date of listing of the property for lease or sale, and shall be removed no later than ten (10) days following the date of closing or leasing. A real estate sign used to advertise multiple units or commercial spaces shall be posted no earlier than the date of listing of the properties for lease or sale, and shall be removed no later than ten (10) days following the date of sale or leasing of sixty (60)</p> |
|--|--|--|--|--|---|---|



|   |  |   |  |                           |        |  |
|---|--|---|--|---------------------------|--------|--|
|   |  |   |  |                           |        | percent of the dwelling units or non-residential spaces.   |
|   |  |   |  |                           |        |  |
| <p>***</p> <p>Construction signs</p> <p>***</p> | Maximum of square feet for all signs on the parcel | 1 general sign and 1 for each trade provided the total sign area does not exceed 80 square feet | 15 feet from official r.o.w. 15 feet to property under different ownership or centered between interior property lines | Same as real estate signs | 8 feet | Construction signs may be posted from the date any building permit is issued for the subject development. Such sign must be removed no later than the time of building permit expiration, or the date that certificates of occupancy have been issued for one-half of the project square footage (for nonresidential development) or one-half of the residential dwelling units (for residential development). |
| Future construction signs                       | Maximum of 40 square feet in BU and IU District    | 1 sign  | Same as construction signs   | Same as real estate signs | 8 feet | Future construction signs shall be posted earlier than the   |

|  |   |  |  |  |  |   |
|--|---|--|--|--|--|---|
|  | 24 square feet in AU, GU, EU and RU Districts |  |  |  |  | date of site plan approval for the property and shall be removed no later than ten (10) days following the date of building permit approval for the site. |
|  |   |  |  |  |  |   |

Sec. 33-100. Permanent point of sale signs for GU, EU-1, EU-1C, EU-2, EU-M, RU-1, RU-2, RU-1MA, RU-1Z, and RU-TH Districts.

(a) Type of signs permitted: Detached; flat;

| <i>Type of Signs</i> | <i>Size</i>     | <i>Number 2</i>   | <i>Setbacks and Spacing</i> | <i>Illumination</i> | <i>Maximum Height</i>            | <i>Special Conditions</i>                                 |
|----------------------|-----------------|---|-----------------------------|---------------------|----------------------------------|---|
| Detached             | 1.5 square feet | Only 1 sign per parcel or dwelling unit; signs shall be of a type to be selected by applicant | 5 feet from a r.o.w. line   | Not permitted       | 5 feet from grade to top of sign | No advertising copy permitted; may be displayed in window |
|                      |                 |   |                             |                     |                                  |   |
|                      |                 |   |                             |                     |                                  |   |
|                      |                 |   |                             |                     |                                  |   |

(b) *Nonconforming uses.* A nonconforming use in a residential district is permitted a flat sign only of the same size as if the use was established on a property in a district zoned permitting the use concerned.

(c) Religious institutions, educational facilities, and universities, when located in these districts, shall be permitted 1 monument sign not to exceed 24 square feet, as provided for in the RU-3 District pursuant to Section 33-101.

Sec. 33-100.1. Permanent point of sale signs for AU.

(a) Type of signs permitted: monument; flat; awning, canopy, roller curtain, umbrella; projecting.

| <i>Type of Signs</i>                              | <i>Size</i>        | <i>Number</i>   | <i>Setbacks and Spacing</i>                           | <i>Illumination</i>   | <i>Maximum Height</i>                            | <i>Special Conditions</i>   |
|---|--------------------|---|---|---|--|---|
| Monument  | 24.0 square feet   | Only 1 sign permitted of a type to be selected by applicant | 10 feet from r.o.w. line 5' to interior property line | See general section on illumination. Lighting permitted if does not conflict with adjacent property | 10 feet from grade to top of sign                | Permit required   |
| Flat (wall and cantilever)                        | See monument above | See monument above  | Not applicable  | Same as monument  | Not applicable                                   | Same as monument  |
| Awning, canopy, roller curtain and umbrella signs | Same as monument   | See monument above  | Same as monument                                      | No illumination permitted   | Not applicable                                   | Same as monument  |
| Projecting  | Same as monument   | See monument above  | Same as monument                                      | Same as monument  | 10 feet from established grade to bottom of sign | Same as monument sign<br>Near edge of sign shall be no more than 18" from building wall |

(b) Religious institutions, educational facilities, and universities, when located in these districts, shall be permitted 1 monument sign, as provided in RU-3 District pursuant to Section 33-101.

Sec. 33-101. Permanent point of sale signs in the RU-3 District.

Type of signs permitted: Detached; flat; awning, canopy, roller curtain, umbrella; projecting; monument; marquee.

| <i>Type of Signs Permitted</i>                    | <i>Size</i>   | <i>Number</i>                    | <i>Setbacks and Spacing</i>                               | <i>Illumination</i>   | <i>Maximum Height</i>   | <i>Special Conditions</i>  |
|---|---|----------------------------------|---|---|---|--|
| Monument  | religious institutions, educational facilities, and universities which are permitted 24 square feet | One (1) sign per r.o.w. frontage | 10 feet from r.o.w.; 5 feet from adjacent property line   | Illumination permitted; see general provision on illumination | 8 feet from grade to top of sign  |  |
| Flat (wall and cantilever)                        | Same as monument  | See monument above               | Not applicable  | Same as above   | Cantilever signs shall not extend vertically above the roof line or parapet wall, whichever is higher |  |
| Awning, canopy, roller curtain and umbrella signs | Same as monument  | See monument above               | 10 feet from r.o.w. 5 feet to interior side property line | No illumination permitted                                     | Not applicable  | Letters attached to fabric shall be limited to the identification of the occupant and/or use of the property |

|                         |                  |  |                                 |   |                                     |                               |
|-------------------------|------------------|--|---------------------------------|---|-------------------------------------|-------------------------------|
| Multifamily Office Sign | 1.5 square feet  | 1 per multifamily office   | Not applicable                  | Illumination permitted; see general provision on illumination | Not applicable                      |                               |
| Detached                | 1.5 square feet  | 1 sign per parcel or dwelling unit; signs shall be of a type to be selected by applicant | 5 feet from a right-of-way line | Not permitted   | 5 feet from grade to top of sign    | No advertising copy permitted |
| Projecting              | Same as monument | See monument above   | Same as monument                | Same as monument  | 9 feet from grade to bottom of sign |                               |
| Marquee                 | Same as monument | See monument above   | Same as monument                | Same as monument  | Not applicable                      |                               |

Sec. 33-102. Permanent point of sale signs in the RU-4L and RU-4M Districts.

Type of signs permitted: Detached; flat; marquee; awning, canopy, roller curtain, umbrella; monument; projecting; pylon.

| <i>Type of Signs</i> | <i>Size</i>          | <i>Number</i>         | <i>Setbacks and Spacing</i>                             | <i>Illumination</i>   | <i>Maximum Height</i>            | <i>Special Conditions</i> |
|----------------------|----------------------|-----------------------|---|---|----------------------------------|---------------------------|
| Monument             | 24 square feet       | 1 per r.o.w. frontage | 10 feet from r.o.w.; 5 feet from adjacent property line | Illumination permitted; see general provision on illumination | 8 feet from grade to top of sign |                           |
| Flat (wall and       | 40 square feet for a | See monument          | Not applicable  | Same as monument  | Cantilever sign shall            |                           |

|   |  |                    |                  |                  |   |  |
|---|--|--------------------|------------------|------------------|---|--|
| cantilever)                                       | building not exceeding 15 feet in height; thereafter, .4 square feet for each foot of building height above 15 feet measured to the lowest point of the sign on the building | above              |                  |                  | not extend vertically above the roof line or parapet wall |  |
| Marquee   | 40 square feet   | See monument above | Same as monument | Same as monument | Not applicable  |  |
| Awning, canopy, roller curtain and umbrella signs | 24 square feet   | See monument above | Same as monument | No illumination  | Not applicable  | Letters attached to fabric shall be limited to 8 inches in height and such signs shall be limited to the identification of the occupant and/or use of the property |
| Projecting  | 24 square feet   | See monument above | Same as monument | Same as monument | Not applicable  |  |
| Pylon   | 40 square  | See                | Not              | Same as          | Not   | See  |



|                            |                       |   |                                 |   |   |  |
|----------------------------|-----------------------|---|---------------------------------|---|---|--|
|                            | feet                  | monument<br>above   | applicable                      | monument  | applicable                                | definition for<br>pylon sign           |
| Multifamily<br>Office Sign | 1.5<br>square<br>feet | 1 per<br>multifamily<br>office  | Not<br>applicable               | Illumination<br>permitted;<br>see general<br>provision on<br>illumination | Not<br>applicable                         |  |
| Detached                   | 1.5<br>square<br>feet | 1 sign per<br>parcel or<br>dwelling<br>unit; signs<br>shall be of<br>a type to be<br>selected by<br>applicant | 5 feet from<br>a r.o.w.<br>line | Not<br>permitted  | 5 feet<br>from<br>grade to<br>top of sign | No<br>advertising<br>copy<br>permitted |

Sec. 33-103. Permanent point of sale signs in the RU-4 District.

Type of signs permitted: Detached; marquee; flat; awning, canopy, roller curtain, umbrella; monument; projecting.

| <i>Type of<br/>Signs</i> | <i>Size</i>           | <i>Number</i>   | <i>Setbacks<br/>and<br/>Spacing</i>                              | <i>Illumination</i>   | <i>Maximum<br/>Height</i>                    | <i>Special<br/>Conditions</i>   |
|--------------------------|-----------------------|---|--|---|--|---|
| Detached                 | 1.5 square<br>feet    | 1 sign per<br>parcel or<br>dwelling<br>unit; signs<br>shall be of<br>a type to be<br>selected by<br>applicant | 5 feet<br>from a<br>r.o.w. line                                  | Not<br>permitted  | 5 feet<br>from<br>grade to<br>top of<br>sign | No<br>advertising<br>copy<br>permitted;<br>may be<br>displayed in<br>window |
| Monument                 | 24 square<br>feet per | 1 per<br>r.o.w.<br>frontage   | 10 feet<br>from<br>r.o.w.;<br>5 feet<br>from<br>interior<br>side | Illumination<br>permitted;<br>see general<br>provision on<br>illumination | 8 feet<br>from<br>grade to<br>top of<br>sign |   |

|   |   |                          |   |                     |   |                     |
|---|---|--------------------------|---|---------------------|---|---------------------|
|   |   |                          | property<br>line  |                     |   |                     |
| Flat (wall<br>and<br>cantilever)                                | 40 square<br>feet for a<br>building<br>not<br>exceeding<br>15 feet in<br>height;<br>thereafter,<br>.8 .4<br>square<br>feet for<br>each foot<br>of<br>building<br>height<br>above 15<br>feet<br>measured<br>to the<br>lowest<br>point of<br>the sign<br>on the<br>building | See<br>monument<br>above | Not<br>applicable   | Same as<br>monument | Cantileve<br>r signs<br>shall not<br>extend<br>vertically<br>above the<br>roof line<br>or parapet<br>wall | Same as<br>monument |
| Awning,<br>canopy,<br>roller<br>curtain and<br>umbrella<br>sign | 24 square<br>feet   | See<br>monument<br>above | Same as<br>monument   | No<br>illumination  | Not<br>applic-<br>able  |                     |
| Projecting  | 24 square<br>feet   | See<br>monument<br>above | Not<br>applicable   | Same as<br>monument | Not<br>applic-<br>able  | Same as<br>monument |
| Marquee   | Total of<br>40 square<br>feet   | See<br>monument<br>above | 10 feet<br>from<br>r.o.w.<br>5 feet<br>from<br>interior<br>side<br>property<br>line | Same as<br>monument | Not<br>applica-<br>ble  | Same as<br>monument |

\* \* \*

Sec. 33-105. Permanent point of sale signs for shopping centers.

Type of signs permitted; flat; pylon; manual changeable copy; awning, canopy, roller curtain, umbrella; semaphore; monument.

| <i>Type of Signs</i>                | <i>Size</i>   | <i>Number</i>   | <i>Setbacks and Spacing</i>  | <i>Illumination</i>   | <i>Maximum Height</i>            | <i>Special Conditions*</i>   |
|-------------------------------------|---|---|--|---|----------------------------------|--|
| Monument                            | Up to 40 square feet for first 50 feet of frontage plus .50 square feet for each additional foot of frontage to a maximum sign size of 48 square feet | 1 sign only if shopping center has less than 500 feet of lineal street frontage; per each street frontage, a shopping center with 500 or more lineal street frontage is permitted either 1 48 square-foot monument sign or 2 24 square-foot monument signs; | Minimum setback for all street r.o.w.'s is 10 feet<br>Interior side setback is a minimum of 5 feet<br>Minimum space between monument signs shall be 200 feet | Illumination permitted; see general provision on illumination | 8 feet from grade to top of sign | Sign shall be used only to identify the shopping center and/or as a directory of tenants in the shopping center; see Section 33-96.1 if located in BU district |
| * * *<br>Flat (wall and cantilever) | 10 percent of the wall area for a building that does not exceed 15 feet in height, then 1.5   | Only 2 signs of a type selected by applicant  | Not applicable   | Same as monument  | Not applicable                   | Signs permitted only for individual tenants.<br>Signs must be placed flat against building or on a cantilever or pylon and must be placed                      |

|        |  |                |                |  |                |  |
|--------|--|----------------|----------------|--|----------------|--|
|        | percent increase for each foot of building height above grade measured to the bottom of the sign           |                |                |  |                | parallel to the street frontage served that the sign serves. |
| Window | Window signs shall cover no more than twenty (20) percent of the area of each individual glass window pane | Not Applicable | Not Applicable | Permitted; see general provision on illumination | Not Applicable |  |

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Sec. 33-106. Permanent point of sale signs in the BU and IU Districts.

Type of signs permitted: marquee; flat; awning, canopy, roller curtain, umbrella; projecting; pylon. (Not applicable to shopping centers; see definition for shopping centers.)

| <i>Type of Signs</i> | <i>Size</i> | <i>Number</i> | <i>Setbacks and Spacing</i> | <i>Illumination</i> | <i>Maximum Height</i> | <i>Special Conditions</i> |
|----------------------|-------------|---------------|-----------------------------|---------------------|-----------------------|---------------------------|
|----------------------|-------------|---------------|-----------------------------|---------------------|-----------------------|---------------------------|

|          |  |  |   |   |                                  |   |
|----------|--|--|---|---|----------------------------------|---|
| Window   | Window signs shall cover no more than twenty (20) percent of the area of each individual glass window pane   | Not Applicable                               | Not Applicable                                      | Permitted; see general provision on illumination              | Not Applicable                   | Not Applicable  |
| Pylon    | Approved sign surface area shall be 20 percent of the wall area from which the pylon extends or projects. Pylon size shall be limited to a maximum of 50 percent of the approved sign surface area | Same as monument                             | Same as monument                                    | Same as monument  | Not applicable                   | In Business and Industrial Districts only, the material and construction may vary from the materials and type of construction of the exterior walls of the building but same must be approved by the Director. In all cases, the pylon shall have the appearance of a solid structure |
| Monument | Up to 48 square feet   | 1 sign only if shopping center has less than | Minimum setback for all street r.o.w.'s is 10 feet; | Illumination permitted; see general provision on illumination | 8 feet from grade to top of sign | Sign shall be used only to identify the shopping center and/or  |

|                            |   |   |  |                  |                  |  |
|----------------------------|---|---|--|------------------|------------------|--|
|                            |   | 500 feet of lineal street frontage; per each street frontage, a shopping center with 500 or more lineal street frontage is permitted either one 48 square-foot monument sign or 2 24 square-foot monument signs | minimum setback for interior side setback is a minimum of 5 feet; minimum space between detached signs shall be 200 feet |                  |                  | as a directory of tenants in the shopping center; see Section 33-96.1 if located in BU districts                         |
| Marquee                    | 40 square feet  | Same as monument  | 10 feet from r.o.w.<br>5 feet from interior side property line   | Same as monument | Same as monument | Same as monument<br>In addition, for purpose of counting signs, each face of a marquee shall count as an individual sign |
| Flat (wall and cantilever) | 10 percent of the wall area for a building that does not exceed 15 feet in height; then $\frac{1}{2}$ percent | Same as monument  | Not applicable   | Same as monument | Not applicable   |  |



|   |  |                  |                  |                  |                |   |
|---|--|------------------|------------------|------------------|----------------|---|
|   | increase for each foot of building height above the 15 feet measured to bottom of the sign |                  |                  |                  |                |   |
| Awning, canopy, roller curtain and umbrella signs | 24 square feet   | Same as monument | Same as monument | Same as monument | Not applicable | 8" letter height  |
| Projecting  | 40 square feet   | Same as monument | Same as monument | Same as monument | Not applicable | In Business and Industrial Districts only, the material and construction may vary from the materials and type of construction of the exterior walls of the building but same must be approved by the Director. In all cases, the pylon shall have the appearance of a solid structure |

\* \* \*

Sec. 33-107 Point of sale signs for the Office Park District.

Type of signs permitted: flat; entrance feature; monument

| <i>Type of Signs</i> | <i>Size</i>  | <i>Number</i>  | <i>Setbacks and Spacing</i>   | <i>Illumination</i>                   | <i>Maximum Height</i>             | <i>Special Conditions</i>  |
|----------------------|--|--|---|---------------------------------------|-----------------------------------|--|
| Monument             | 50 square feet   | 1 monument or flat wall sign per principal building; must be located adjacent to principal building being identified | 10 feet from official r.o.w. line, edge of pavement of private drives, and any property lines | See general provision on illumination | 10 feet from grade to top of sign | The flat or monument sign may only identify the building or occupants therein  |
| Flat (wall)          | Same as monument   | See monument above   | Not applicable  | Same as monument                      | Not applicable                    | Same as monument   |
| Entrance feature     | Determined by administrative approval of entrance features | 1 only   | Site plan review  | Same as monument                      | Not applicable                    | Signage to identify the office park complex shall be integrated into entrance feature design and be permitted upon entrance feature approval |

#### DIVISION 5. COMMERCIAL SIGNS ON EXPRESSWAY RIGHT-OF-WAY

Sec. 33-120.10. Definitions.

(a) "Expressway" shall mean limited access rights-of-way and facilities and related approaches, viaducts, bridges and interchange facilities and service roads and any portion of the interstate highway system, now existing or as may be later constructed or designated.

(b) "Applicable regulations" shall mean any pertinent zoning, building or other regulations in effect in the incorporated or unincorporated areas of Miami-Dade County or the State of Florida.

(c) "Protected areas" shall mean all property in Miami-Dade County within six hundred (600) feet of the right-of-way of any expressway right-of-way provided that directional signs and semaphore signs may be located on any portion of a shopping center which is approved as a development of regional impact pursuant to section 380.06, Florida Statutes, or which has received a binding letter of vested rights from the State of Florida issued prior to January 1, 1980, exempting it from development of regional impact review. Any such signs shall be subject to the requirements of Article VI of this Chapter, but the provisions of section 33-121.15 shall not apply.

#### Sec. 33-120.11. Regulations of signs within protected areas.

Erection of the following signs shall be permitted in protected areas, subject to the conditions and limitations listed herein:

(a) *Temporary signs* which are located and oriented to serve streets other than an expressway, and are located at least one hundred (100) feet from the expressway right-of-way, except that such signs may serve and be oriented to an expressway if the property concerned abuts the expressway right-of-way and is not served by a parallel expressway service road or is abutting the expressway right-of-way and has direct, permanent legal access to the expressway. In no event shall any temporary sign be larger than one hundred twenty (120) square feet.

(b) *Point of sale signs* which are located on and oriented to the frontage on the street which provides actual and direct access to the front or principal entrance of the place of business; however, on corner lots a second detached point of sale sign will be permitted provided that the same is not larger than forty (40) square feet, and is located on and the sign face is oriented directly perpendicular to the street frontage. "Oriented," in connection with point of sale signs, shall mean, in the case of detached signs, placed at a ninety (90) degree angle to the street being serviced; in the case of roof signs, parallel to and fronting the street and within the front twenty-five (25) percent of the building concerned; and in the case of pylon signs, within the front twenty (20) percent of the building concerned. Wall signs within two hundred (200) feet of an expressway shall be confined to the wall of the building containing the principal entrance, except that a wall sign may be placed on one (1) other wall of such building and shall be limited to ten (10) percent of such other wall area. In no event shall any detached point of sale sign be erected within the protected area which is greater in height than twenty-five (25) feet above the average grade of the premises concerned, and no point of sale roof sign shall be erected which is greater in height above the roof than ten (10) feet.

#### DIVISION 6. NONCONFORMING SIGNS

##### Sec. 33-120.12. Nonconforming signs.

(a) Signs or sign structures made legally nonconforming under this article, or upon the passage of any amendment to this article, shall be governed by the following regulations:

(1) A sign existing within the Town, or an area subsequently annexed to the Town, upon the passage of this Ordinance or any future amendment to this article, which because of its height, square foot area, location, or other characteristic, does not conform to this article in all respects is hereby declared to be a nonconforming sign.

(2) A nonconforming temporary sign must be removed within thirty (30) days from the effective date of the ordinance creating the non-conformity.

(3) Nonconforming signs subject to the amortization provisions of Sec. 33-121.28 shall be governed by the applicable amortization requirements of that section.

(4) Failure to remove a nonconforming or prohibited sign as required by this section shall cause the sign to be declared an illegal sign.

(b) If any nonconforming sign is damaged by any cause and the cost of repairing the sign equals fifty percent (50%) or more of the original cost of the sign structure, then its classification as a nonconforming sign under this section shall be automatically revoked and the sign must be repaired or replaced to meet all the requirements of this article.

(c) Loss of nonconforming status.

(1) Immediate loss of nonconforming status. A nonconforming sign shall immediately lose its nonconforming status if:

i. The sign is altered in any way that renders the sign less in compliance with the requirements of this article than it was before the alteration (including alteration of the technology used in a sign); or

ii. The sign is relocated to a position making it less in compliance with the requirements of this article; or

iii. The sign is replaced or abandoned for a period of six (6) months or more.

If any one of these events occurs, the sign shall be immediately brought into compliance with this article.

(2) *Nonconforming sign maintenance and repair.* Nothing in this article shall relieve the owner or user of a nonconforming sign, or the owner of the property on which the nonconforming sign is located, from the provisions of this Article, regarding safety, maintenance and repair of signs.

(3) *Notification of repair or alteration to nonconforming sign.* The owner of a nonconforming sign who desires to make any repair or alteration to such sign shall, in addition to compliance with the applicable building code requirements, submit an application describing the nature of the repair or alteration to the Department of Planning and Development. All final determinations as to the nonconforming status of any sign shall be made by the Director.

#### DIVISION 7. VARIANCE PROCEDURE.

##### Sec. 33-120.13. Variances.

No sign shall be permitted to be erected contrary to the size, location and appearance provisions of this article unless a variance is approved by the Town Council in conformance with the following criteria:

- (1) Special conditions and circumstances exist which are peculiar to the land on which the sign is proposed and that these conditions and/or circumstances are not applicable to other lands in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) The granting of the variance requested will not confer upon the applicant any special privilege that is denied by this article to others in the same zoning district.
- (4) Literal interpretations of the provisions of this article would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this article and would result in an unnecessary and undue hardship on the applicant.
- (5) The grant of the variance is not contrary to the intent of this article, or Chapter 33, Article VI of the Miami-Dade County Code of Ordinances, as applicable, will be in harmony with the purpose of this Article, and will not be injurious to the area involved or otherwise detrimental to the public welfare.

#### DIVISION 8. AMORTIZATION

##### Sec. 33-120.14. Amortization of certain prohibited signs.

(a) It is the intent of this section to recognize that the eventual elimination of certain existing signs that are not in conformity with the provisions of these regulations, in as expeditious a manner as it is reasonable, bears as much relation to the health, safety, and welfare of the citizens of the Town as the prohibition of new signs that would violate

these regulations. It is also the intent of this section to protect private property rights to the extent required by law.

(b) *Applicability.* This sign amortization procedure shall apply to v-shaped point of sale signs, pole signs, and attached and freestanding signs including exposed or visible neon light tubing, as prohibited by Section 33-95 of this Chapter. This procedure shall not apply to off-premises signs governed by the provisions of Section 70.20, Florida Statutes (2002).

(c) *Continuance.* Subject to the sign amortization schedule below, a nonconforming v-shaped point of sale sign, pole sign, and attached or freestanding sign including exposed or visible neon light tubing may be continued for the length of the applicable amortization period, and shall be maintained in good condition, and shall conform with the regulations applicable to nonconforming structures in the Town.

(d) *Removal or conformance; amortization schedules.* All nonconforming v-shaped point of sale signs, pole signs, and attached and freestanding signs including exposed or visible neon light tubing in existence upon the effective date of the prohibition on such signs as adopted by this Ordinance, and which previously conformed to all legal requirements, but which are made nonconforming by the provisions of these regulations, shall be brought into conformity or shall be removed in accordance with the following amortization plan.

**Schedule of time periods for removal, replacement, or alteration of signs subject to amortization procedures to meet ordinance requirements based upon the cost of original installation**

| <b>Cost of Original Installation</b> | <b>Time Period to Conform</b> |
|--------------------------------------|-------------------------------|
| \$0-500                              | 6 months                      |
| \$500-\$999                          | 1 year                        |
| \$1,000 -\$7,000                     | 2 years                       |
| \$7,001 and over                     | 3 years                       |
| \$20,000 and over                    | 5 years                       |

(e) *Procedure for enforcement of amortization requirements.*

(1) The amortization schedule applicable to each sign determined to be subject to this subsection shall be determined by the Director or his or her designee based upon a review of building permits to determine the original cost of installation of the sign. The period of nonconformity shall begin as of the effective date of this Ordinance. Prior to the Town enforcing the amortization period against any sign, it shall be the responsibility of the Director, or his or her designee, to make an inventory and a record of all nonconforming signs subject to the amortization requirement and to serve notification of the commencement of amortization regulations on the



owners of such signs. Such inventory shall include the following information:

- a. Owner;
- b. Location; and
- c. Valuation.

(2) *Application for extension of amortization period.* An owner of a sign who desires an amortization period longer than that specified in the amortization schedule shall file an application for extension with the Department of Planning and Development within thirty (30) days of notification of the commencement of amortization regulations. The application shall be on a form provided by the Department, and shall include a statement setting forth the cost of the nonconforming sign, the date of installation, and/or the cost and date of the most recent renovation. An extension of an amortization period may be granted if the Director of the Department of Planning and Development finds that, with regard to the individual sign at issue, the amortization period set forth in this ordinance is unreasonable. The Director's decision may be appealed to the Town Council by the applicant within thirty (30) days of the rendition of this decision.

**Section 3. Conflicts.** All ordinances or Code provisions in conflict herewith are hereby repealed.

**Section 4. Severability.** 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 5. Inclusion in the Code.** It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; 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 6. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 18 day of June, 2008.

PASSED and ADOPTED on second reading this 20 day of August, 2008.

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PAUL S. VROOMAN, Mayor

Attest:

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ERIKA GONZALEZ-SANTAMARIA, CMC  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

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WEISS SEROTA HELFMAN PASTORIZA  
COLE & BONISKE, P.L.  
Town Attorney

Moved By: Councilmember Bell  
Seconded By: Vice Mayor MacDougall

FINAL VOTE AT ADOPTION:

|                                   |            |
|-----------------------------------|------------|
| Mayor Paul S. Vrooman             | <u>YES</u> |
| Vice Mayor Edward P. MacDougall   | <u>YES</u> |
| Councilmember Peggy R. Bell       | <u>YES</u> |
| Councilmember Timothy J. Meerbott | <u>YES</u> |
| Councilmember Ernest N. Sochin    | <u>NO</u>  |