

13. DISCUSS UPDATES TO THE RESILIENCY CODE
Applicable Area:

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members
FROM: Eric Carpenter, City Manager
DATE: June 10, 2025
TITLE: DISCUSS UPDATES TO THE RESILIENCY CODE

RECOMMENDATION

The Administration recommends that the Land Use and Sustainability Committee (LUSC) endorse the attached ordinance, as well as the additional amendments to the Land Development Regulations of the City Code (LDRs) proposed herein, and recommend that the Mayor and City Commission (City Commission) refer an updated ordinance to the Planning Board.

BACKGROUND/HISTORY

On February 3, 2025, at the request of Commissioner Alex Fernandez, the City Commission referred an item pertaining to periodic updates to the Resiliency Code (C4 S) to the LUSC. On May 8, 2025, the item was discussed and continued to a future LUSC meeting with direction to further develop the proposed criteria for outdoor recreational uses.

ANALYSIS

On February 1, 2023, the City Commission adopted the Resiliency Code (Ordinance No. 2023-4537), which updated and amended the LDRs. The Resiliency Code took effect on June 1, 2023, and one of the new components was the creation of a provision for periodic updates to the code. To this end, section 2.3.1 of the Resiliency Code provides the following:

2.3.1 PERIODIC REVIEW

It shall be the duty of the planning board and the board of adjustment, in cooperation with the planning director and the city attorney to continuously review the provisions and the regulations in these land development regulations, including the district maps, and the comprehensive plan and from time to time, to offer recommendations to the city commission as to the sufficiency thereof, in accomplishing the development plans of the city.

Consistent with section 2.3.1, applicable provisions of the Resiliency Code were reviewed with the Board of Adjustment (BOA) on September 6, 2024, and the Planning Board on September 24, 2024. Pursuant to these discussions, the attached draft ordinance has been prepared, and is summarized hereto:

Definitions

- Clarify that the definition of 'yard' (front and side) includes for corner lots with radial corners, the front setback and the side setback facing the street shall be taken from the midpoint of the curve of the corner of the property.
- Modify the definition of 'high albedo surface' to include specific colors that reflect sunlight in

the rating standard.

- Clarify the definition of 'lot' to clearly specify that a lot must meet applicable zoning requirements for a use.

Use Clarifications and Updates

- Clarify that outdoor commercial recreation is permitted in commercial districts.
- For clarity purposes, prohibited and allowable accessory uses are now included within the applicable zoning district tables.
- Providing improved uniformity in use tables in all zoning districts.
- Providing additional clarity to uses permitted in the Government Use (GU) and Light Industrial (I-1) districts.
- Updating the sidewalk cafe definition to clarify that sidewalk cafés are administered under the sidewalk café concession program.
- Clarify that hotel occupancy limits are applicable to the C-PS1 and MXE districts

Allowable Yard Encroachments

- Add bicycle parking as an allowable yard encroachment (up to 25%) in non-single-family districts.
- Add art installations as an allowable yard encroachment in non-single-family districts.
- Clarify that allowable marine structure projections are specific to the parallel extension of the side property lines seaward of the seawall, and that the regulatory requirements for all seaward projections are subject to County approval.

Planning (PZ) Permits

- A definition for 'planning and zoning' (PZ) permit has been created. This permit is for improvements that are subject to the provisions in the LDRs but do not require a building permit.
- Clarify that required landscaping must obtain a PZ permit if the proposed improvements are not subject to a building permit.
- Clarify that a paint permit is not required when painting up to 25% of a building and using pre-approved colors.

Residential Single-Family Districts (RS 1-4)

- Clarify the height limit of single-story homes in the development regulations table.
- Clarify that pools and ponds are permitted within an understory area.
- Clarify the minimum front yard setback requirements for the first and second floors of new homes.
- Clarify that there is a minimum clearance of 7 feet and a maximum height of 9 feet for carports.

- Clarify the requirements for porches, platforms, and terraces within required yards.
- Clarify that swimming pools have a minimum front setback of 20 feet, including the pool deck.
- Clarify that interior side yard fence heights are measured from the future crown of road.
- Allow for up to 1 foot of insulation for roof drainage as an allowable height exception on all homes.

Parking

- Clarify the parking requirement for restaurant areas not used for seating refers to public areas intended for patrons to stand, such as bar areas or dance floors.
- Clarify that fractional rounding is rounded up to the nearest whole number for proposed uses and credits.

Hearing Procedures/Appeals

- The quasi-judicial procedure in the Resiliency Code have been reconciled with Chapter 2 of the City Code by replacing “Special Master” with “Special Magistrate”.

Amendment Process

- Increase the timeframe for the planning board to hold a public hearing on an amendment application from the current 60 days to 120 days.
- Increase the timeframe that an ordinance transmitted by the planning board must be placed on a City Commission agenda from 30 days to 120 days.

Signage

- Clarify that real estate signs do not require PZ Permit, but must comply with the requirements set forth in the temporary signs section.

General Updates

- Clarify that the residential first habitable level standards in Chapter 7, Article I, are specific to non-single-family homes.
- Allow for up to 1 foot of insulation for roof drainage as an allowable height exception.

SUMMARY

In addition to the amendments in the attached draft ordinance, the Administration recommends the following additional clarifying amendments:

1. Appendix A shall be updated to include applicable fees for certificates of use and commission warrants.
2. In Chapters 2 and 7, clarify that notices for DRB Advisory Review and GU Waivers can be through the Miami-Dade website, consistent with other land use board applications, as follows:

Chapter 2 Article V

2.5.3.2 *Applicability*

* * *

b. Advisory review. The design review board shall be required to review certain specified city neighborhood projects, stormwater pump stations, and related apparatus (which are otherwise exempt from design review, in a non-binding, advisory capacity, and provide written recommendations on such projects to the city commission, subject to the following regulations:

* * *

6. Notice. The advisory review by the design review board shall be noticed by publication in a newspaper of general circulation on a publicly accessible website hosted by Miami-Dade County, consistent with the requirements of section 50.0311, Florida Statutes at least 15 days in advance of the meeting. Additionally, for stormwater pump stations and related apparatus, notice shall be posted on the land subject to the application, and mailed to owners of record of land lying within 375 feet of the land pursuant to section 2.2.4.1.

Chapter 7 Article II

7.2.16.3 *Development Regulations (GU)*

* * *

h. When a public hearing is required to waive development regulations before the city commission, the public notice shall be ~~advertised in a newspaper of general paid circulation in the city~~ on a publicly accessible website hosted by Miami-Dade County, consistent with the requirements of section 50.0311, Florida Statutes, at least 15 days prior to the hearing. Fifteen days prior to the public hearing date, both a description of the request and the time and place of such hearing shall be posted on the property, and notice shall also be given by mail to the owners of land lying within 375 feet of the property. A five-sevenths vote of the city commission is required to approve a waiver or use that is considered under this regulation.

3. To better address evolving minimum base flood elevation requirements in non-single family home districts, additional clarifying text in Chapter 7 should be developed to address the minimum height of the first habitable floor from base flood elevation plus minimum freeboard.
4. In Chapter 7, clarify that the minimum ground elevation for understory buildings in multifamily districts is the future crown of the road elevation.
5. In Chapter 7, develop criteria specific to the RS districts for air conditioners to be located closer than 5 feet to a setback line when a building has non-conforming setbacks and there are no practical alternatives.
6. In Chapter 7, establish standards for outdoor commercial recreation, by creating section 7.5.4.14 under the supplementary use regulations as follows:

7.5.4.14 Outdoor commercial recreation.

Outdoor commercial recreation shall comply with the following general provisions:

- a. Outdoor commercial recreation shall only be permitted in the following zoning districts: CD-2, CD-3, C-PS2, C-PS3, C-PS4, TC-2, TC-3, TC-C, and I-1.*
- b. Outdoor commercial recreation shall be permitted on the ground level and rooftops.*

- c. Outdoor commercial recreation shall be subject to the review and approval of the historic preservation board or design review board, as applicable, subject to the certificate of appropriateness or design review criteria, as applicable.*
- d. Outdoor speakers, if approved by the historic preservation board or design review board, as applicable, shall only be used during recreation activities and any sound generated shall be fully contained within the boundaries of the property.*
- e. When located on a rooftop, the establishment shall be subject to the applicable maximum height limitation and allowable height exceptions of the underlying zoning district and applicable overlays.*
- f. When located on the ground level, the establishment shall be subject to the following:*
 - 1. The ground shall be raised at a minimum to the future crown of road elevation.*
 - 2. The maximum height of fences shall be 10 feet and the fences shall be set back at least 10 feet from all property lines.*
 - 3. Accessory lighting fixtures, when customarily associated with the use of the outdoor commercial recreation establishment, shall be erected so as to direct light only on the premises on which they are located. The maximum height of light fixtures shall not exceed 10 feet when located in a required yard; otherwise, the maximum height shall not exceed 20 feet. Light is permitted to be cast on any public right-of-way.*
 - 4. All chainlink fences shall be coated with green, brown or black materials.*
 - 5. Fences shall be substantially screened from view from adjacent properties, public rights-of-way, and waterways by landscape materials.*
 - 6. Landscaping, when associated with tennis courts, shall be allowed to equal the height of the fence. The area between the tennis court fence and the front lot line shall be landscaped and approved by the planning and zoning director prior to the issuance of a building permit.*

If there is consensus on these proposed additional amendments, an updated draft ordinance can be prepared, for referral by the City Commission to the Planning Board.

FISCAL IMPACT STATEMENT

No Fiscal Impact

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

The Business Impact Estimate (BIE) was published on .

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends that the LUSC endorse the attached draft ordinance, as well as the additional amendments to the LDRs proposed herein, and recommend that the City Commission refer an updated ordinance to the Planning Board.

Applicable Area

Citywide

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

Discuss Updates to the Resiliency Code

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Eric Carpenter, City Manager
DATE: February 3, 2025
TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE – RESILIENCY CODE UPDATES.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) refer the item to the Land Use and Sustainability Committee (LUSC).

BACKGROUND/HISTORY

On February 1, 2023, the City Commission adopted the Resiliency Code (Ordinance No. 2023-4537), which updated and amended the Land Development Regulations of the City Code (LDRs). The Resiliency Code took effect on June 1, 2023.

On September 6, 2024, the Board of Adjustment (BOA) discussed proposed Resiliency Code updates and recommendations. On September 24, 2024, the Planning Board discussed proposed Resiliency Code updates and recommendations.

ANALYSIS

Section 2.3.1 of the Resiliency Code provides the following:

2.3.1 PERIODIC REVIEW

It shall be the duty of the planning board and the board of adjustment, in cooperation with the planning director and the city attorney to continuously review the provisions and the regulations in these land development regulations, including the district maps, and the comprehensive plan and from time to time, to offer recommendations to the city commission as to the sufficiency thereof, in accomplishing the development plans of the city.

Consistent with section 2.3.1, applicable provisions of the Resiliency Code were reviewed with the BOA on September 6, 2024 and the Planning Board on September 24, 2024. Pursuant to these discussions, the following updates and clarifications to the Resiliency Code are recommended:

1. Definitions

- Clarify “**Yard**” definition provide that “for corner lots with radial corners, the front setback and the side setback facing the street shall be taken from the midpoint of the curve of the corner of the property.”
- Create definition for “Detached Building” – “Detached Building” includes “Detached Addition.”
- **High albedo surface** means a material that has a solar reflectance value of 0.65 or

greater on the Solar Reflectance Index ("SRI"), consistent with the Cool Roof Rating Council Standard Product Rating Program Manual ("CRRC-1"), as may be amended from time-to-time.

- **Cool pavement** means a paving material that has a high albedo surface and reflects more solar energy than standard paving materials, or that has been otherwise modified to remain cooler than conventional pavements.
- **Lot** means a parcel of land of at least sufficient size to meet minimum applicable zoning requirements for a use, minimum width, and area, and to provide such yards and other open spaces as are required in these land development regulations. Such lot shall have frontage on a public street, and may consist of:
 - a. A single lot of record;
 - b. A portion of a lot of record;
 - c. A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;
 - d. A parcel of land described by metes and bounds."Lot" includes the word "plot" or "parcel" or "tract" or "site."

2. Use Clarifications

- Define Outdoor Commercial Recreation and clarify that it is permitted in commercial districts
- Clarify Accessory Uses by moving the district specific uses to applicable zoning districts
- Clarify districts that Nuisance Uses are not permitted in residential districts
- Provide greater uniformity in use tables in all zoning districts
- GU District – Clarify allowable government uses
- Provide additional clarity to Industrial Uses and Auto-Related Uses in the I-1 district
- Clarify that Sidewalk Café's are Sidewalk Café "Concession Program" Areas
- Clarify that hotel occupancy limits are applicable to C-PS1 and MXE districts

3. Yard Encroachments

- Clarify that "Central air conditioners, emergency generators, swimming pool equipment, and other mechanical equipment" are allowable yard encroachments for all districts; not just RM-1 and TH
- Clarify that Bicycle Parking is an allowable yard encroachment (25%) in non-single-family districts.
- Clarify that Art Installations are an allowable yard encroachment in non-single-family districts, subject to Design Review or COA approval.
- Clarify that Accessory building limits include walkways.
- Clarify Marine Structure regulations by clearly indicating that the seaward side yard shall consist of the parallel extension of the side property lines seaward of the seawall.

4. PZ Permits

- Define "Planning and Zoning (PZ) Permit" – a permit development related activities that do not require a building permit, but do require the approval from the Planning Director or designee.
- Landscaping – Clarify that landscaping that requires a permit not subject to a building permit can be authorized with a PZ Permit.
- Clarify that a paint permit is not required when painting up to 25% of the façade of a building or when using pre-approved colors.

5. RS-1, 2, 3, & 4 Residential Single-Family Districts

- Clarify height limit of Single Story Homes in Building Heights table
 - 18 feet in height for a flat roof structure and 21 feet for a sloped roof structure

- Understory homes clarify that pools and ponds can go in the understory
- Clarify that a 20' front yard setback for the 1st floor and a 40' front yard setback for the second floor is permitted for new construction.
- Move minimum floor-to-ceiling height that is applicable to single family ground floors in 7.1.2.2 to RS district.
 - Clarify that the minimum 12-foot floor-to-ceiling clearance is intended from BFE + 1.
- Carports - clarify that there is a minimum clearance of 7 feet and a maximum height of 9 feet.
- Clarify requirements for yard encroachments.
 - Remove "height" from the definition of projections
 - Porches, platforms and terraces up to the DFE up to BFE+5' instead of 30 inches above the yard elevation.
- SF front setback allow for 20' for 1st floor if 2nd floor setback 40' for new construction.
- Clarify that swimming pools have a minimum front setback of 20'.
 - Clarify that pool setbacks include the pool deck.
- Clarify that requirement for landscaped open space for water areas of a pool when located in a rear yard.
- Interior Side and Non-Waterfront Rear Yard Fence Heights measured from minimum required yard elevation.
- Allow for up to 1 foot of insulation for roof drainage as an allowable height exception.
- Incentives for Pre-1966 Architecturally Significant Homes:
 - Clarify that sum of side yards setback does not apply.
 - Clarify that allowable projections are not required to be habitable spaces and can include garages or carports.
 - Permit habitable projections to be detached from the main structure.
 - Simplify finalization requirements for architectural significance letters.

6. Parking

- Clarify that the parking requirement for restaurant areas not used for seating includes those areas intended for patrons to stand, such as bar areas or dance floors.
- Clarify that fractional rounding is rounded up to the nearest whole number for proposed uses and credits.

7. Hearing Procedures/Appeals

- Reconcile the quasi-judicial procedure in the Resiliency Code with Chapter 2 of the City Code, where appropriate.
- Replace "Special Master" with "Special Magistrate".

8. Amendment Process

- Within ~~60~~ 120 days of receiving an application the [planning] board shall hold a public hearing. Within ~~30~~ 120 days from the close of the public hearing date that the board transmits the amendment to the City Commission the planning director shall ~~submit a report~~ place the amending ordinance on a City Commission agenda for first reading and include a summary of the board's recommendations on the proposal to the city commission.
- Within ~~60~~ 120 days of transmission of the recommendation of the planning board to the city commission, the commission shall consider the proposed amendment at first reading. At second reading, the city commission, at a public hearing(s), may adopt, adopt with changes, or deny the application. Notice of the public hearing(s) shall be provided as set forth in subsection 2.4.2.(d) for changes to the text of the land development regulations; and notice of the public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of

chapter 163, Florida Statutes and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

9. Signage

- Clarify that Real Estate Signs do not require PZ Permit, though they must comply with the temporary signs section.
- Clarify the dimension requirements for wall signage by indicating that the minimum sign area allowed is not the minimum area required for wall signs.

10. General

- Allow for up to 1 foot of insulation for roof drainage as an allowable height exception.
- Clarify supper club hours of operation.
- GU Scrivener's Error

After these, as well as any additional updates, are discussed by the LUSC, a draft ordinance will be prepared, for referral by the City Commission to the Planning Board.

FISCAL IMPACT STATEMENT

Not Applicable

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends that the City Commission refer the item to the LUSC.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Condensed Title

Ref: LUSC - Resiliency Code Updates. (Fernandez) PL

Previous Action (For City Clerk Use Only)

RESILIENCY CODE – PERIODIC UPDATES

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH RESILIENCY CODE, BY AMENDING; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

Section 1. Chapter 1, entitled "General Provisions," is hereby amended as follows:

Chapter 1 GENERAL PROVISIONS

* * *

ARTICLE II – DEFINITIONS

1.2.1 GENERAL DEFINITIONS

* * *

Detached building (see accessory building)

* * *

High albedo surface means a material that has a light color, such as a shade of white or gray, and is therefore adept at reflecting a large portion of sunlight. When other colors are used, a high albedo surface on a roof must have solar reflectance value of 65 or greater on the Solar Reflectance Index ("SRI"), consistent with the Cool Roof Rating Council Standard Product Rating Program Manual ("CRRC-1"), as may be amended from time-to-time. For non-roof surfaces, a high albedo surface must have a solar reflectance of 0.40.

* * *

Lot means a parcel of land of at least sufficient size to meet ~~minimum applicable~~ zoning requirements for a use, minimum width, and area, and to provide such yards and other open spaces as ~~are~~ required in these land development regulations. Such lot shall have frontage on a public street, and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
- c. A combination of complete lots of record, and portions of lots of record; or of portions of lots of record;
- d. A parcel of land described by metes and bounds.

"Lot" includes the word "plot" or "parcel" or "tract" or "site."

* * *

Planning and Zoning (PZ) Permit means a development permit related to activities that do not require a building permit, but do require the approval from the Planning Department or Planning Director.

* * *

Porous pavement means a pavement material that allows for water to drain through the pavement surface into the ground. Such pavement shall have a minimum of ~~20~~15 percent of air content, or voids to allow for the water to drain.

* * *

Yard, front means a yard extending the full width of the lot between the main building and the front lot line. For corner lots with radial corners, the front yard shall be taken from the midpoint of the curve of the corner of the property.

* * *

Yard, side means a yard between the building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof. For corner lots with radial corners, the side yard facing the street shall be taken from the midpoint of the curve of the corner of the property.

* * *

1.2.2 USE DEFINITIONS

* * *

1.2.2.4 Commercial

* * *

Café, sidewalk shall be ~~defined in chapter 82 of General Ordinances~~ defined as outdoor table service areas in public rights of way that are approved through the Outdoor Dining Concession Program approved for the consumption of food and beverages prepared for service in an adjacent structure.

* * *

Outdoor commercial recreation means a commercial establishment operated for recreational uses, including but not limited to, gymnasiums, fitness studios, court games, field games, swimming pools, operated outdoors, operated for profit, whether or not a profit is actually made.

Section 2. Chapter 2, entitled “Administration and Review Procedures” is hereby amended as follows:

Chapter 2 ADMINISTRATION AND REVIEW PROCEDURES

* * *

2.2.4.8 Appeal and court review of land use board decisions

- a. Decisions of the following shall be final, and there shall be no further review thereof except by resort to a court of competent jurisdiction by petition for writ of certiorari:

1. Planning board.
 2. Board of adjustment.
 3. Design review board, with respect to variance decisions and administrative appeals, only.
 4. Historic preservation board, with respect to variance decisions and administrative appeals, only.
 5. Historic preservation special ~~master~~ magistrate.
- b. Decisions from the following may be appealed as noted:
1. Historic preservation board.
 - A. Any applicant requesting an appeal of a decision on a certificate of appropriateness from the historic preservation board shall be made to the historic preservation special ~~master~~ magistrate, except that an order granting or denying a request for rehearing shall not be reviewed by the historic preservation special ~~master~~ magistrate.
 - B. The historic preservation special ~~master~~ magistrate shall meet the following requirements:
 - I. *Historic preservation special ~~master~~ magistrate qualifications.* Historic preservation special ~~masters~~ magistrates appointed to hear appeals pursuant to this subsection shall be attorneys who are members in good standing of the Florida Bar and have expertise in the area of historic preservation.
 - II. *Historic preservation special ~~master~~ magistrate terms.* Historic preservation special ~~masters~~ magistrates shall serve terms of three years, provided however, that they may be removed without cause upon a majority vote of the city commission. Compensation for historic preservation special ~~masters~~ magistrates shall be determined by the city commission.

* * *

- d. *Decision on Appeal.* In order to reverse, amend, modify, or remand amendment, modification, or rehearing the decision of the board, the city commission (for design review board appeals), and the historic preservation special ~~master~~ magistrate (for historic preservation board appeals of Certificates of Appropriateness, Dig or Demolition), shall find that the board did not comply with any of the following:

* * *

ARTICLE IV – Amendments to Comprehensive Plan and to the Text of the Land Development Regulations

2.4.1 GENERALLY

- e. Review by Planning Board

* * *

3. Procedures
 - A. Within ~~60~~ 120 days of receiving an application the board shall hold a public hearing. Within ~~30~~ 120 days from the ~~close of the public hearing~~ the date the board transmits the amendment to the City Commission the planning

director shall ~~submit a report~~ place the amending ordinance on a City Commission agenda for first reading and include a summary of the board's recommendations on the proposal to the city commission.

- B. The following applications may be withdrawn by the owner applicant at any time before a decision of the planning board:
 - I. An application for a change in the actual list of permitted, conditional or prohibited uses in zoning categories;
 - II. An application for any other amendment to these land development regulations; or
 - III. An application for an amendment to the comprehensive plan
- C. If the application is withdrawn after advertisement for a public hearing, the same or a substantially similar petition covering the same property shall not be resubmitted except by an official of the city or the city commission for at least one year after the date established for the prior hearing. Filing fees shall not be refunded once the public hearing has been advertised.

f. Review by city commission.

- 3. Within ~~60-120~~ days of transmission of the recommendation of the planning board to the city commission, the commission shall consider the proposed amendment at first reading. At second reading, the city commission, at a public hearing(s) ~~and may~~ adopt, adopt with changes, or deny the application. Notice of the public hearing(s) shall be provided as set forth in subsection 2.4.2.(d) for changes to the text of the land development regulations; and notice of the public hearing regarding proposed amendments to the city's comprehensive plan shall be in accordance with the applicable requirements of chapter 163, Florida Statutes and the public participation procedures set forth in the city's comprehensive plan as they may be amended from time to time.

* * *

ARTICLE V – Rezonings and Development Approvals

* * *

2.13.7 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION

* * *

d. Decisions on certificates of appropriateness.

* * *

- 5. After deciding to grant a request for a certificate of appropriateness for demolition the historic preservation board may stay for a fixed period of time, not to exceed six months, the issuance of the certificate of appropriateness for demolition. Should the board grant a stay for demolition, the length of such a stay shall be determined by the board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The effective date of the stay shall be from the date of the historic preservation board's public hearing.

Alternatively, if an appeal to a special master magistrate is filed, upon request of the petitioner, the board may stay demolition pending the conclusion of that appeal and any subsequent court review of the matter.

Section 3. Chapter 4, entitled “Landscape Requirements” is hereby amended as follows:

CHAPTER 4 - LANDSCAPE REQUIREMENTS

ARTICLE I – INTENT AND APPLICABILITY

* * *

4.1.2 Short title and applicability

- a. *Title.* This regulation shall be known and may be cited as the "City of Miami Beach Landscape Ordinance".
- b. *Applicability.* All building permits for new construction, substantial rehabilitation or additions to existing buildings, and projects that are reviewed under the conditional use, variance, design review, and/or certificate of appropriateness processes, inclusive of city projects. The planning director, or designee shall conduct all landscape reviews pursuant to the regulations set forth in this chapter and consistent with the design review or certificate of appropriateness regulations, as applicable and as set forth in chapter 2 of these land development regulations. The landscape review shall include, but not be limited to, parking decks, all required yards, decks associated with recreational facilities, or any open space areas that are visible to the public. Landscape modifications that do not require a building permit or that do not meet the substantial rehabilitation criteria shall be submitted as a PZ Permit.

Section 4. Chapter 5, entitled “Off-Street Parking” is hereby amended as follows:

CHAPTER 5 OFF-STREET PARKING

ARTICLE I. IN GENERAL

* * *

5.1.2 Interpretation of off-street parking requirements

* * *

- 10. When applying parking credits or reductions, any fractional spaces shall be rounded ~~down~~ up to the nearest whole number.
- 11. For restaurants, areas not used for seating refers to public areas intended for patrons to stand, such as waiting areas, bar areas, takeout areas, dance floors if permitted, or similar areas.

Section 5. Chapter 6, entitled “Signs” is hereby amended as follows:

Chapter 6 SIGNS

ARTICLE I – IN GENERAL

* * *

6.1.3 General requirements

The following requirements shall apply to signs, in addition to provisions appearing elsewhere in these land development regulations:

- a. Unless otherwise exempted in section 6.1.4, no sign shall be erected, constructed, posted, painted, altered, or relocated without the issuance of a building permit or planning and zoning (PZ) permit.

* * *

ARTICLE III – TEMPORARY SIGNS

6.3.1 Generally

* * *

- h. With the exception of election/free speech signs, real estate signs, and temporary window signs, all signs shall be reviewed under the design review or certificate of appropriateness process set forth in section 2.5.3. Election/free speech signs and real estate signs shall not require a permit; however, they must comply with the applicable requirements above.

SECTION 6. Chapter 7, entitled “Zoning Districts and Regulations,” is hereby amended as follows:

Chapter 7 ZONING DISTRICTS AND REGULATIONS

ARTICLE I: GENERAL TO ALL ZONING DISTRICTS

* * *

7.1.2 RESILIENCE AND ADAPTATION STANDARDS

* * *

7.1.2.2 Resilience and Adaptation Standards for Buildings

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- d. Residential First Habitable Level (FHL) Standards in Non-Single Family Districts.

1. *New Construction*

- A. The floor of the first habitable level for residential ~~uses~~ buildings shall be located no lower than the Design Flood Elevation (DFE). With the exception of developments with an ~~understory homes in the RS districts~~, the first habitable level shall have a minimum floor-to-ceiling height of 12 feet in order to allow for the future retrofit and raising of the first habitable level, or if Design Flood Elevation (DFE) is adjusted upward in the future.
- B. For residential lobbies and enclosed stairwells that screen parking and that are also located below DFE, these shall have floodproofing for all facades below DFE extending 36 inches above DFE.

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7.1.7 COLOR OF EXTERIOR SURFACES

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7.1.7.3 Color selection procedures and review criteria

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b. *Permit required.*

- 1. A building or structure shall not be painted or have applied a natural or manufactured material as an exterior facade without first receiving a building permit or paint PZ permit pursuant to the applicable requirements of the Florida Building Code and the city's land development regulations. No building or structure shall be painted or have a material applied to the exterior facade, except in a paint color or material approved pursuant to the provisions of this section 7.1.7.3.b.
- 2. Permits for repainting of existing structures or painting of new structures, or applying a natural or manufactured material to an exterior facade, shall not be issued until either: (a) the applicant selects a color from the approved color chart for approval of paint permit application, or (b) has a specific color, not represented in the color chart, or a specific color which may require approval of the design review board or historic preservation board as applicable. This provision does not apply to single family homes unless designated historic or located in a historic district.
- 3. If the building or structure to be painted, or surfaced with a natural or manufactured material, requires a permit or approval in addition to a paint or material approval from a board or the ~~planning department, design and historic preservation division~~, the applicant may submit an application for a building permit or board approval simultaneously with an application for paint or material color approval. However, a certificate of occupancy, certificate of completion, or certificate of use, whichever is requested earlier, shall not be issued until the ~~planning department, design and historic preservation division~~ or design review or historic preservation board, as applicable. The planning director shall have the authority to approve or deny the color selection based upon the criteria as set forth in section 7.1.7.3.c. The criteria

listed in section 7.1.7.3.c may be utilized for projects being reviewed by the design review or historic preservation board, as applicable.

4. A PZ permit shall not be required when painting up to 25 percent (25%) of the façade of a building when using pre-approved colors.

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ARTICLE II: DISTRICT REGULATIONS

* * *

7.2.2 RS-1, RS-2, RS-3, RS-4 SINGLE-FAMILY RESIDENTIAL DISTRICTS

7.2.2.2 Uses (RS)

* * *

c. Supplemental Accessory uses Regulations (RS)

The Supplemental Accessory Uses are as follows:

- ~~1. The accessory uses in the RS-1, RS-2, RS-3, RS-4 single-family residential districts are those uses customarily associated with single-family homes. See section 7.5.4.13.~~
1. Generally. Permitted accessory uses in single-family districts are those uses which are customarily associated with single-family houses and limited to the occupants of the home. Such uses include, but are not limited to, marine structures and decks for the storage of watercraft, swimming pools, spas, , tennis courts and, where permitted, accessory dwelling units.
2. Permitted accessory uses. The following are permitted accessory uses in single-family districts:
 - A. Family day care facilities for the care of children are permitted, and shall not have any restriction regarding unit size, if the following mandatory criteria are met:
 - I. A family day care facility shall be allowed to provide care for one of the following groups of children:
 1. A family day care facility may care for a maximum of five (5) preschool children from more than one unrelated family and a maximum of five (5) elementary school siblings of the preschool children in care after school hours. The maximum number of five (5) preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten (10) under this subsection.
 2. When the home is licensed and provisions are made for substitute care, a family day care facility may care for a maximum of five (5) preschool children from more than one

- unrelated family, a maximum of three (3) elementary school siblings of the preschool children in care after school hours, and a maximum of two (2) elementary school children unrelated to the preschool children in care after school hours. The maximum number of five (5) preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten (10) under this subsection.
3. When the home is licensed and provisions are made for substitute care, a family day care facility may care for a maximum number of seven (7) elementary school children from more than one unrelated family in care after school hours. Preschool children shall not be in care in the home. The total number of elementary school children in the home may not exceed seven (7) under this subsection.
- II. Signs on the property advertising the day care facility are prohibited.
 - III. The family day care facility complies with all applicable requirements and regulations of the state department of children and family services and the city's police, fire and building services departments. All of the applicable Building Code, city property maintenance standards and fire prevention and safety code violations shall be corrected prior to the issuance of a city occupational license.
 - IV. Play area shall only be located in the rear yard and equipment shall be limited to three (3) pieces of equipment.
 - V. Day care is prohibited on Sundays and the hours of operation are limited to Monday through Friday from 8 am to 8 pm and Saturday from 8 am to 5 pm Hours of operation beyond these shall require conditional use approval.
 - VI. The building shall maintain the external appearance of a single-family home.
 - VII. Site plan shall be approved by the planning and zoning director. The plan shall include landscaping and a permitted wall or fencing enclosing the rear yard.
 - VIII. Family day care facilities shall not be located within 400 feet of another such facility; except that this restriction shall not apply to state-licensed family day care homes as defined in F.S. § 402.302(5).
- B. The planning director may approve a second set of cooking facilities if the residence contains at least 3,600 square feet of unit size and the arrangement of such facilities or conditions at the property shall not result in the creation of an apartment units. No more than one (1) electric meter shall be placed on the property and that portion of the residence having the

second set of cooking facilities shall not be rented. The restrictions set forth in this subsection 7.5.4.13.d.2.B shall not apply to an accessory dwelling unit (ADU).

C. An accessory dwelling unit (ADU) is permitted pursuant to the following requirements:

I. Maximum number. No more than one ADU shall be permitted per single-family lot.

II. Maximum area. The area of an ADU shall be included in the overall unit size calculation for the site. In no instance shall the total size of the ADU exceed 600 square feet or ten percent (10%) of the size of the main home on the subject site, whichever is greater. Notwithstanding the foregoing, the maximum size of an ADU shall not exceed 1,500 square feet.

III. Minimum area. An ADU shall be a minimum of 200 square feet in area.

IV. Existing accessory structures. For existing accessory structures, built prior to January 1, 2019, the aforementioned maximum and minimum areas shall not be applicable to an ADU, unless the unit is expanded in size.

V. Location. An ADU may be attached to the primary residence with a separate entrance that is secondary to the entrance to the main home subject to any limitations on the primary structure as set forth in the land development regulations. Additionally, the entire site shall maintain the external appearance of a single-family home. Alternatively, an ADU may be located in an accessory building, subject to the requirements and limitations for accessory buildings in single-family districts identified in section 7.2.2.3.b.11.A

VI. Kitchens. An ADU may contain a full kitchen facility.

VII. Utilities. A separate electric meter may be provided for an ADU.

VIII. Lease. Any lease of an ADU shall be subject to the following requirements:

1. Unless otherwise provided herein, the use of an ADU shall be limited to the use of the family occupying the primary dwelling, temporary guests, or servants of the occupants of the primary dwelling, and shall not be rented or leased.

2. The lease of an ADU to a family unrelated to the family occupying the primary dwelling unit shall only be permitted as follows:

i. Within an ADU that (1) was issued a certificate of occupancy on or before October 26, 2019, and (2) is located on a property that is owner-occupied and located between Dade Boulevard on the south and Pine Tree Drive Circle on the north.

ii. Within an ADU located on a property that is owner-

occupied and located in the Palm View Historic District.

- iii. Each year, evidence of a property's ownership shall be provided to the planning director, subject to the director's approval, in order to confirm the property's eligibility for the rental of an ADU. If a property ceases to be owner-occupied, the renewal of a lease for an ADU shall be prohibited, and residents of the ADU shall vacate the premises upon termination of the lease. It shall be the responsibility of the property owner to satisfy the yearly requirement for providing evidence as to ownership and to notify the city of any change to the status of the property's ownership.
 3. The lease of an ADU to a family (as defined in section 1.2.2) unrelated to the family occupying the primary dwelling unit for a period less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under section 7.5.4.13.d.2.C.II. to original leaseholders, shall be prohibited.
 4. Property owners seeking to allow for the lease of an ADU unit to a family unrelated to the family occupying the primary dwelling unit must obtain all applicable fire and building permits, and a certificate of use, as applicable, permitting the lease of the ADU, subject to the requirements listed above. The application shall provide proof of compliance with the requirements of this section 7.5.4.13.d.2.C. Additionally, the applicant shall provide an affidavit agreeing to and affirming the applicant's understanding of the requirements in this section 7.5.4.13.d.2.C.
 5. A violation of these requirements shall be subject to the enforcement and enhanced penalty provisions for leases of single-family homes set forth in subsection 7.5.4.13.d.2.E.
 6. Tracking. The planning director shall maintain a database of all approved ADUs in the city, including statistics relating to the number of certificates of use issued, and any violations issued pursuant to this section 7.5.4.13.d.2.C.
- D. Home based business office, as provided in section 7.5.5.6.
- E. Leases of single-family homes to a family (as defined in section 1.2.2) for not less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under this subsection to original leaseholders. The advertisement, as defined in section 7.2.2.2.d.1.B, of single-family homes for a period of less than six (6) months and one (1) day shall not be permitted for single-family districts, and shall be a violation of this subsection 7.5.4.13.d.2.E.

I. Enforcement.

1. Violations of subsection 7.5.4.13.d.2.E shall be subject to fines as provided in F.S. ch. 162.1 Fines for repeat violations by the same offender shall increase regardless of locations. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and the Miami-Dade Tax Collector, with a copy of the special magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for transient rental or occupancy at the single-family residential premises.
2. In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.
3. Any code compliance officer may issue notices for violations of this subsection 7.5.4.13.d.2.E. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this subsection 7.5.4.13.d.2.E. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records.
4. The advertising or advertisement for the transient rental or occupancy, short-term rental for period(s) of less than six (6) months and one (1) day of the residential property for the purpose of allowing such transient rental or occupancy, short-term rental or rental for period(s) of less than six (6) months and one (1) day at the residential premises is direct evidence that there is a violation of subsection 7.5.4.13.d.2.E , which is admissible in any proceeding to enforce subsection 7.5.4.13.d.2.E The advertising or advertising evidence raises a rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of subsection 7.5.4.13.d.2.E

II. Enhanced penalties. The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 7.5.4.13.d.2.E.I, above, for violations of subsection 7.5.4.13.d.2.E:

1. Enhanced penalties for violation of subsection 7.5.4.13.d.2.E:
 - i. The transient rental or occupancy must be

immediately terminated, upon confirmation that a violation has occurred, by the Miami Beach Police Department and the Code Compliance Department.

- ii. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.

* * *

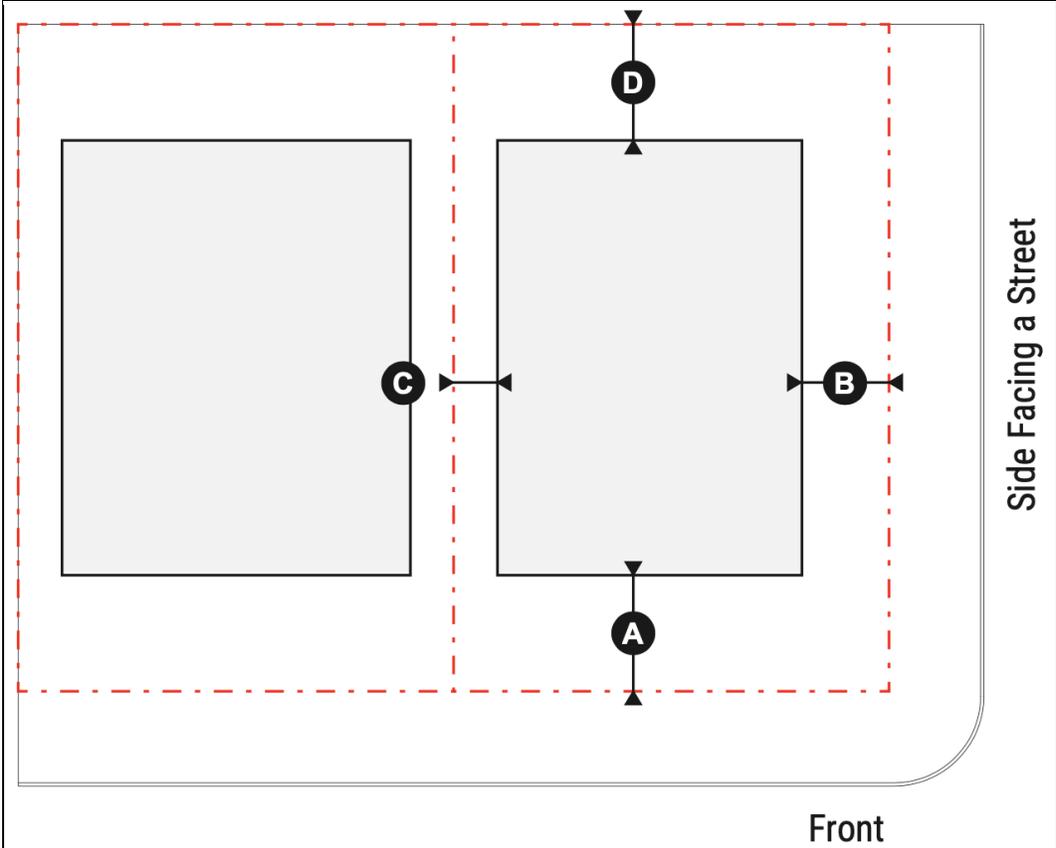
7.2.2.3 Development Regulations (RS)

* * *

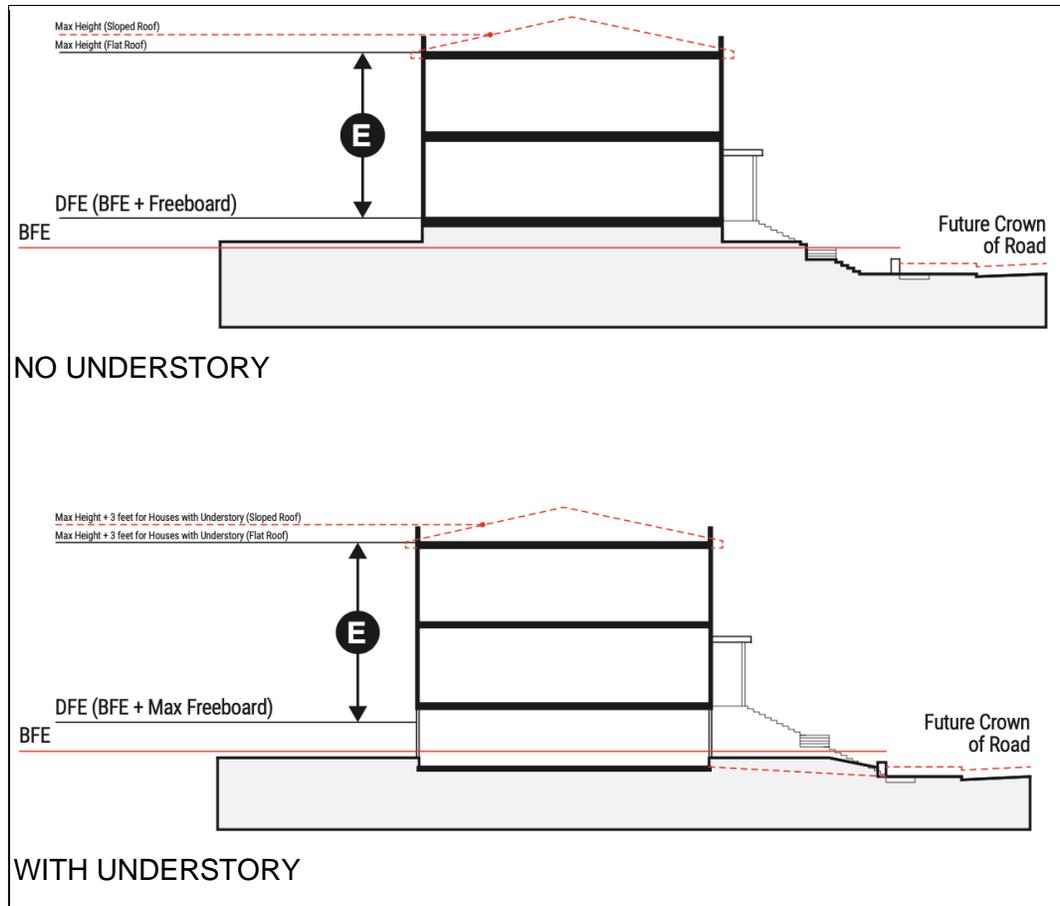
b. The development regulations for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:

- 1. *The FAR, density, lot area, lot width, lot coverage, unit size, setbacks, and building height requirements for the RS-1, RS-2, RS-3, RS-4 single-family residential districts are as follows:*

DEVELOPMENT REGULATIONS TABLE (RS)				
	RS-1	RS-2	RS-3	RS-4
	*	*	*	*
Front Setback (A)	20 feet -1 Story Structure (5)(6) - provided that any future addition of a two-story attached structure shall be setback a minimum of 40 feet 30 feet <u>or 20 feet for the first story and 40 feet for the second story</u> - 2 Story Structures - (5)(6)			



BUILDING HEIGHT	RS-1	RS-2	RS-3	RS-4
Maximum Height (stories)	2 stories			
Maximum Height for Single-story Homes (2)(4)(9)	18 ft – flat roofs 21 ft – sloped roofs			
Maximum Height for Two-story Homes (feet) (3)(4)(9) No Understory	28 ft - flat roofs 31 ft – sloped roofs	24 ft – flat roofs 27 feet – sloped roofs (4)	24 ft – flat roofs 27 feet – sloped roofs	
Maximum Height (feet) (3)(4) Understory Home	31 feet - flat roofs 34 feet - sloped roofs (8)	28 feet - flat roofs (7) 31 feet - sloped roofs (7)(8)	28 feet - flat roofs 31 feet - sloped roofs	



11. Allowable encroachments within required yards.

E. Carports and solar carports. Only one carport or solar carport shall be erected within a required yard of a single-family home, subject to the following requirements, as may be applicable:

- I. Carports and solar carports shall be subject to the following requirements:
 1. Carports shall be constructed of canvas and pipe for the express purpose of shading automobiles.
 2. Carports or solar carports constructed prior to the adoption of this section shall be considered legal nonconforming structures. Such nonconforming canopies may be repaired or replaced; however, the degree of their nonconformity shall not be increased thereby.

CARPORTS AND SOLAR CARPORTS STANDARDS
TABLE (RS)

	* * *
Minimum Height	7 feet (Unobstructed view between grade and lower edge of the carport or solar carport)
<u>Maximum Height</u>	<u>9 feet</u>
<p>(1). Provided the carport or solar carport is attached to or immediately adjacent to the main building. When a carport or solar carport is detached and located more than 12 inches from the main home it shall not be located in the required front or side-facing-the-street yards.</p> <p>(2). The sides of the carport or solar carport that face the required rear yard may be permitted to align with the walls of the existing residence, provided the residence is located a minimum of 5 feet from the rear property line.</p>	

* * *

G. *Driveways.* Driveways and parking spaces leading into a property are subject to the following requirements:

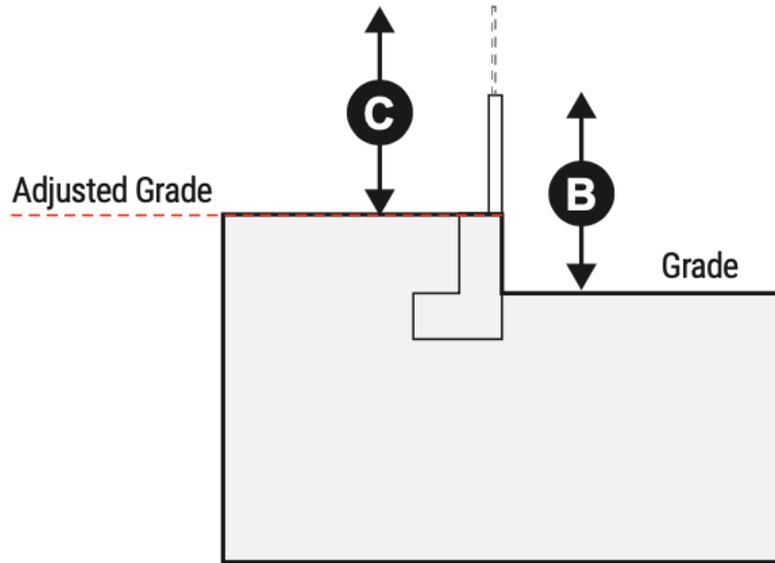
- II. Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or of cool pavement ~~shall have a high albedo surface consisting of a durable material or sealant~~, as defined in section 1.2.1 of this Code.
- III. Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 1.2.1 of this Code, shall be prohibited.
- IV. The maximum width of all driveways at the front or side facing a street property line including access driveways from the Right of Way shall not exceed 30 percent (30%) of the lot width, and in no instance shall be less than 9 feet in width and greater than 18 feet in width.

* * *

H. Fences, walls, and gates. Regulations pertaining to materials and heights for fences, walls and gates are as follows:

FENCES, WALLS AND GATES STANDARDS TABLE (RS)	
Maximum Height at the Front Yard (A)	
At the property line	5 feet, as measured from grade
Set back from the property line	5 feet plus 1 foot for every 2 feet of setback up to a maximum of 7 feet, as measured from grade
Maximum Height at the Side Facing a Street Yard, Waterway or Golf Course (A)	
Side Facing a Street, Waterway or Golf Course Yard	5 feet, as measured from grade (1)
<p>The diagram illustrates a cross-section of a property with a fence. A horizontal red line represents the Base Flood Elevation (BFE). The ground surface is shown with a dashed red line for the Future Crown of Road and a solid black line for the actual Grade. A fence is shown with a vertical line indicating its height, measured from the Grade to the top of the fence. A circled 'A' is placed at the measurement point. A dashed red line also indicates a height measurement from the BFE to the top of the fence.</p>	
Maximum Height at the Side Interior and Rear Yards	
Side Interior Yard	7 feet, as measured from grade <u>future crown of the road elevation</u> (B)
Rear Yard	7 feet, as measured from future

adjusted grade © (1) (2)



(1). In the event that a property has approval to be improved at or above the future adjusted grade, the overall height of fences, walls and gates may be measured from future adjusted grade, provided that the portion of such fences, walls or gates above 4 feet in height consists of open pickets with a minimum spacing of 3 inches, unless otherwise approved by the Design Review Board (DRB) or Historic Preservation Board (HPB), as applicable.

* * *

L. Marine structures. Seaward side yard setbacks for boat slips, decks, wharves, dolphin poles, mooring piles, davits, or structures of any kind shall not be less than 7 feet and 6 inches. For purposes of this section, the seaward side yard shall consist of the parallel extension of the side property lines seaward of the seawall. This requirement pertains to the enlargement of existing structures as well as to the construction of new structures. It is further provided that any boat, ship, or vessel of any kind shall not be docked or moored so that its projection extends into the required seaward side yard setback, and the mooring of any type of vessel or watercraft shall be prohibited along either side of the walkway leading from the seawall to a boat dock. Land-side decks may extend to the deck associated with the marine structure. Lighting associated with, but not limited to, the deck, or marine structure shall be installed in such a manner to minimize glare and reflection on adjacent

properties and not to impede navigation. The maximum projection of a marine structure shall be determined by the applicable county department having jurisdiction of environmental resource management. ~~If a dock or any kind of marine structure/equipment, whether or not it is attached to a dock, projects more than 40 feet into the waterway or extends beyond the maximum projection permitted under section 66-113 in General Ordinances, the review and approval of the applicable state and county authorities shall be required.~~

* * *

N. Projections. Every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent (25%) of the required yard up to a maximum height of 6 feet, unless otherwise noted.

* * *

IV. Porches, platforms and terraces up to ~~30 inches above the yard elevation of the lot~~ design flood elevation (DFE), not to exceed BFE plus the maximum freeboard, as defined in section 1.2.1. Such projections and encroachments may be located up to the first habitable floor elevation and include stairs, steps, ADA-compliant ramps and related walkways, not exceeding 5 feet in width, which provide access to all porches, platforms, terraces and the first floor when elevated to meet minimum flood elevation requirements, including freeboard.

* * *

P. Swimming pools. Accessory swimming pools, including the pool deck, open and enclosed, or covered by a screen enclosure, or a screen enclosure not covering a swimming pool, may only occupy a required rear, interior side yard or sideyard facing a street, subject to the following:

SWIMMING POOLS STANDARDS TABLE		
SWIMMING POOL SETBACKS		
	To the swimming pool deck or platform, the exterior face of an infinity edge pool catch basin, or screen enclosure associated or not associated with a swimming pool.	To the water's edge of the swimming pool or to the waterline of the catch basin of an infinity edge pool.
Front Setback (A)	Principal building setback minimum <u>20 feet</u>	

SWIMMING POOLS STANDARDS TABLE		
Side facing a street Setback ⑥	10 feet (1)	11.5 feet
Side, Interior Setback ③	7.5 feet (1)	9 feet
Rear Setback ④	6 feet (1) (2) (3)	7.5 feet (2)

* * *

2. *Understory Level Standards* Non-airconditioned Understory space located below minimum flood elevation, plus freeboard. Except as otherwise provided in this Code, homes with understories may be approved administratively, as provided herein:

* * *

- i. ~~Roof insulation, For flats roofs, up to twelve (12") inches of insulation shall be an allowable height exception and may be located above the roof slab.~~

~~Portions of insulation exceeding twelve (12") inches above the roof slab shall be included in the overall height of the home.~~

9. *Height exceptions.* The height regulation exceptions contained in section 7.5.2 shall not apply to the RS-1, RS-2, RS-3 and RS-4 zoning districts. The following exceptions shall apply, and unless otherwise specified in terms of height and location, shall not exceed 10 feet above the highest point of the proposed roof. In general, height exceptions that have not been developed integral to the design intent of a structure shall be located in a manner to have a minimal visual impact on predominant neighborhood view corridors as viewed from public rights-of-way and waterways.
- I. Chimneys and air vents, not to exceed 5 feet in height measured from the point at which they emerge from the roof.
 - J. Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, and belfries.
 - K. Radio and television antennas, satellite, and internet dishes.
 - L. Parapet walls, only when associated with a habitable roof deck or when used to screen roof top mechanical equipment. When associated with a habitable roof deck, the parapet shall not exceed 3 feet, 6 inches above the finished roof deck height, and shall be set back a minimum of 10 feet from the perimeter of the enclosed floor below. When used to screen mechanical equipment, the parapet walls shall not exceed the height of the equipment being screened.
 - M. Rooftop curbs, not to exceed 3 feet in height.
 - N. Elevator bulkheads shall be located as close to the center of the roof as possible and be visually recessive such that they do not become vertical extensions of exterior building elevations.
 - O. Skylights, not to exceed 5 feet above the point at which they emerge from the roof, and provided that the area of skylight(s) does not exceed 10 percent (10%) of the total roof area of the roof in which it is placed.
 - P. Air conditioning and mechanical equipment not to exceed 5 feet above the point at which they emerge from the roof and shall be required to be screened in order to ensure minimal visual impact as identified in the general section description above.
 - Q. Rooftop wind turbines, not to exceed 10 feet above the highest point of the roof,
 - R. Solar panels, not to exceed 5 feet in height above the point at which they emerge from the roof.
 - S. Covered structures, which are open on all sides, and do not extend interior habitable space. Such structures shall not exceed a combined area of 20 percent (20%) of the enclosed floor area immediately one floor below, and shall be set back a minimum of 10 feet from the perimeter of the enclosed floor below.
 - T. Roof insulation. For flats roofs, up to twelve (12") inches of insulation shall be an allowable height exception and may be located above the roof slab.

Portions of insulation exceeding twelve (12") inches above the roof slab shall be included in the overall height of the home.

* * *

7.2.4 RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY

* * *

7.2.4.2 USES (RM-1)

USES TABLE (RM-1)	
RESIDENTIAL	
Single-family detached dwellings	P
Townhomes	P
Apartments	P
LODGING	
Apartment Hotels	Pro P *
Hotels	Pro P *
Suite Hotels	Pro P *
Bed and Breakfast Inn	Pro P *
Hostels	Pro
OFFICE	
Administrative Offices	A*
COMMERCIAL	
Accessory Commercial Use	Pro A*
Hall for Hire	C *
<u>Health Club (For Residents Only)</u>	A*
Restaurant serving alcoholic beverages	C *
Accessory outdoor bar counters	C *
Accessory outdoor open air entertainment establishment	C *
Entertainment establishment	C* A*
Retail	Pro A *
Restaurants with or without accessory bars, and personal services	Pro A *
Alcoholic beverage establishments	Pro *
Gambling and Casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Religious Institutions with occupancy of 199 persons or less	A *
Religious Institutions with occupancy of more than 199 persons	C
CIVIL SUPPORT	
Private and Public Institutions	C
Accessory neighborhood impact establishments	C *
EDUCATIONAL	

* * *

7.2.5 RM-2 RESIDENTIAL MULTIFAMILY, MEDIUM INTENSITY

* * *

7.2.5.2 Uses (RM-2)

USES TABLE (RM-2)	
RESIDENTIAL	
Single-family detached dwellings	P
Townhomes	P
Apartments	P
LODGING	
Apartment Hotels	P* Pro*
Hotels	P* Pro*
Suite Hotels	P*
Hostels	Pro*
OFFICE	
Offices	P* A*
Non-medical office uses	C*
COMMERCIAL	
Accessory Commercial Use	A*
Hall for Hire	C*
Personal service uses	C*
Restaurants, cafes and/or eating and drinking establishments, which include entertainment	C* A*
Retail Uses	A*
Outdoor bar counters	C* A*
Alcoholic beverage establishments	A*
Accessory outdoor entertainment establishment	Pro*
Accessory open air entertainment establishment	Pro*
Entertainment establishment	C* A*
Accessory outdoor bar counter	Pro*
Health Clubs	A*
<u>Tobacco/vape dealers</u>	<u>Pro</u>
<u>Check cashing stores</u>	<u>Pro</u>
<u>Pawnshops</u>	<u>Pro</u>
<u>Secondhand dealers of precious metals/precious metals dealers</u>	<u>Pro</u>
<u>Check cashing stores</u>	<u>Pro</u>
<u>Vitamin shops as a standalone use</u>	<u>Pro</u>
<u>Occult science establishments</u>	<u>Pro</u>
<u>Souvenir and t-shirt shops</u>	<u>Pro</u>
<u>Tattoo studios</u>	<u>Pro</u>

USES TABLE (RM-2)	
Gambling and Casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Stand-alone religious Institutions	C
Religious Institutions with occupancy of 199 persons or less	A*
CIVIL SUPPORT	
Private and Public Institutions	C
Accessory neighborhood impact establishments	C*
EDUCATIONAL	
Day Care Facility	C
Schools	C
Family Day Care Centers	A*
INDUSTRIAL	
OTHER	
Commercial or noncommercial parking lots and garages	C
Key	
P – Main Permitted Use	
C – Conditional Use	
A – Accessory Use	
Pro – Prohibited Use	
* See Supplemental use regulations below	

a. **Supplemental main permitted uses regulations (RM-2)**

The supplemental main permitted uses are as follows:

1. Apartment hotels, hotels, hostels, and suite hotels (pursuant to section 7.5.4.5).

A. Except that in the Palm View corridor, defined in this subsection as all properties abutting the west side of Meridian Avenue between 17th Street and Collins Canal, apartment hotel or hotel uses are only permitted if issued a building permit or occupational license prior to May 28, 2013, or are approved by the design review board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a “legal conforming use.” A property that has a “legal conforming use” as used in this subsection prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and/or accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available.

B. In the West Avenue corridor, defined in this subsection as that area bordered by Collins Canal to the north, Alton Road to the east, Biscayne Bay to the west, and 6th Street to the south (MAP EXHIBIT-2), apartment-hotel or hotel uses are only permitted if issued a building permit or

occupational license prior to May 28, 2013, or are approved by the design review board pursuant to a complete application filed and pending prior to May 28, 2013, in which event they shall be considered a “legal conforming use.” A property that has a “legal conforming use” as used in this subsection prior to May 28, 2013, may retain all, and apply for new, expansions and modifications to, permitted, conditional and/or accessory uses permitted in the zoning category as of May 28, 2013, and apply for building permits to add, improve and/or expand existing structures, or construct new structures for permitted, conditional and/or accessory uses permitted in the zoning category, if FAR remains available.

C. Where permitted, hotels located in the RM-2 district are permitted to have accessory uses that are customarily associated with the operation of a hotel or apartment building, subject to the requirements in section 7.5.4.13, except for the following:

I. dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments, unless otherwise provided in the RM-2 district regulations set forth in section 7.2.5.

II. Outdoor Bar Counters.

2. Offices that are incidental and customary to a hotel in the RM-3 district fronting Collins Avenue located no more than 1,200 feet from the RM-3 hotel property . For purposes of this section, the distance between the RM-3 hotel property and the RM-2 office property shall be measured by following a straight line between the properties’ boundaries; further that office property shall be governed by a restrictive covenant approved as to form by the city attorney, recorded in the public records, stipulating that the office use may only remain as long as the hotel use continues.

* * *

c. Supplemental Accessory Uses Regulations (RM-2)

The supplemental accessory uses are as follows:

1. The accessory uses in the RM-2 residential multifamily, medium intensity district are as required in section 7.5.4.13
2. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the General Ordinances.
3. Notwithstanding the foregoing, a property that had a legal conforming use as of May 28, 2013, shall have the right to apply for and receive special event permits that contain entertainment uses.
4. Entertainment uses shall be subject to the requirements in section 7.5.5.4.
5. Health clubs, for use by residents or open to the public for buildings in the RM-2 district.
6. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district (MAP EXHIBIT-1) may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent (70%) of the ground floor. These uses

may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.

* * *

7.2.6 RM-3 RESIDENTIAL MULTIFAMILY, HIGH INTENSITY

* * *

7.2.6.2 Uses (RM-3)

USES TABLE (RM-3)	
RESIDENTIAL	
Single-family detached dwellings	P
Townhomes	P
Apartments	P
LODGING	
Apartment Hotels	P
Hotels	P*
Suite Hotels	P*
Hostels	P* Pro*
OFFICE	
Office	A*
COMMERCIAL	
Commercial	A*
Eating or drinking uses	A*
Retail	A*
Personal service establishment	A*
<u>Tobacco/vape dealers</u>	<u>Pro</u>
<u>Check cashing stores</u>	<u>Pro</u>
<u>Pawnshops</u>	<u>Pro</u>
<u>Secondhand dealers of precious metals/precious metals dealers</u>	<u>Pro</u>
<u>Check cashing stores</u>	<u>Pro</u>
<u>Vitamin shops as a standalone use</u>	<u>Pro</u>
<u>Occult science establishments</u>	<u>Pro</u>
<u>Souvenir and t-shirt shops</u>	<u>Pro</u>
<u>Tattoo studios</u>	<u>Pro</u>
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Stand-alone religious institutions	C

USES TABLE (RM-3)	
Religious Institutions with occupancy of 199 persons or less	A*
CIVIL SUPPORT	
Private and Public Institutions	C
Accessory neighborhood impact establishments	C
EDUCATIONAL	
Day Care Facility	C
Schools	C
Family Day Care Facility	A*
INDUSTRIAL	
OTHER	
Commercial or noncommercial parking lots and garages	C
Key	
P - Main Permitted Use	
C - Conditional Use	
A - Accessory Use	
Pro - Prohibited Use	
* See Supplemental use regulations below	

* * *

c. Supplemental Accessory uses Regulations (RM-3)

The supplemental accessory uses are as follows:

1. Those uses permitted in section 7.5.4.13.
2. Buildings in the RM-3 district shall be limited to the following accessory uses, subject to the requirements of section 7.5.4.13:
 - I. Commercial, office, eating or drinking uses with access from the main lobby or from the street.
 - II. Retail or personal service establishments.
3. Alcoholic beverage establishments pursuant to the regulations set forth in chapter 6 of the General Ordinances.
4. Accessory outdoor bar counters, pursuant to the regulations set forth in chapter 6 of the General Ordinances, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.
5. Oceanfront hotels with at least 100 hotel units may operate and utilize an accessory outdoor bar counter, notwithstanding the above restriction on the hours of operation, provided the accessory outdoor bar counter is (i) located in the rear yard, and (ii) set back 20 percent (20%) of the lot width (50 feet minimum) from any property line adjacent to a property with an apartment unit thereon.
6. RM-3 properties within the "West Avenue Corridor"(MAP EXHIBIT-1) may not have accessory outdoor entertainment establishments. Notwithstanding the foregoing, a property that had a Legal Conforming Use as of May 28, 2013, shall have the right

- to apply for and receive special event permits that contain entertainment uses.
7. Kennels shall only be for animals belonging to building residents only, and would not be a general boarding facility for people who do not reside in the building.
 8. Entertainment uses shall be subject to the requirements in Section 7.5.5.4.

* * *

7.2.16 GU GOVERNMENT USE DISTRICT

* * *

7.2.16.2 Uses (GU)

USES TABLE (GU)	
RESIDENTIAL	
LODGING	
OFFICE	
COMMERCIAL	
Alcoholic Beverage Establishment	P*
Gambling and Casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
Accessory commercial uses	P
CIVIC	
Parks and associated parking	P
Performing arts and cultural facilities	P
Monuments and memorials	P
Government uses	P
CIVIL SUPPORT	
Public institutions	P
EDUCATIONAL	
Schools	P
Libraries	P
INDUSTRIAL	
OTHER	
Parking lots and garages	P
Key	
P – Main Permitted Use	
C - Conditional Use	
A - Accessory Use	
Pro - Prohibited Use	
* See Supplemental use regulations below	

* * *

7.2.23 I-1 LIGHT INDUSTRIAL DISTRICT

* * *

7.2.23.2 Uses (I-1)

USES TABLE (I-1)	
RESIDENTIAL	
Residential Uses	Pro*
Live-work units	C*
LODGING	
Hostels	Pro*
OFFICE	
Professional, business, research or administrative offices	P*
COMMERCIAL	
Commercial uses	P*
Kennel	P
Restaurants with alcoholic beverage licenses	C*
Liquor Stores	C*
Alcoholic Beverage Establishments	A*
Formula commercial establishment	Pro*
Formula restaurant	Pro*
Dance Halls	Pro*
Entertainment Establishments	Pro*
Outdoor Entertainment Establishment	Pro*
Bars	Pro*
Pawnshops	Pro*
Tobacco and Vape Dealers	Pro*
Check cashing stores	Pro*
Convenience stores	Pro*
Occult science establishments	Pro*
Souvenir and T-shirt shops	Pro*
Tattoo studios	Pro*
Gambling and Casinos pursuant to section 7.1.8	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro
CIVIC	
Religious institutions with an occupancy of 199 persons or less	P
Religious institutions with an occupancy greater than 199 persons	C
CIVIL SUPPORT	
Neighborhood Impact Establishments	Pro
EDUCATIONAL	
INDUSTRIAL	
Assembly or packaging of goods not utilizing heavy machinery	P*
Light manufacturing, not utilizing heavy machinery	P*

USES TABLE (I-1)	
Printing, engraving, lithographing, media services and publishing, not utilizing heavy machinery	P
Wholesale businesses and sales, warehouses, mini and other storage buildings, and distribution facilities	P*
Artisan Studios	P*
Plumbing, electrical, air conditioning and other similar type shops	P*
Tailoring Services	P*
Landscaping Services	P*
Machine, welding, and printing shops, involving heavy machinery	C
Recycling receiving stations	C
Towing services	C*
Automobile repair, service, washing, detailing, and similar uses	P*
OTHER	
Main use parking garages and parking lots	C
Neighborhood Impact Structure	C
Neighborhood Impact Lot	C
Key	
P – Main Permitted Use	
C – Conditional Use	
A – Accessory Use	
Pro – Prohibited Use	
*See Supplemental use regulations below	

* * *

7.2.15.2 Residential Performance Standards Districts (R-PS)

a. Uses (R-PS)

* * *

The following uses are permitted in the residential performance standard districts:

USES TABLE (R-PS)		
	R-PS 1, 2	R-PS 3, 4
RESIDENTIAL		
Single-family	P	P
Townhome	P	P
Apartment	P	P
LODGING		
Apartment hotel pursuant to section 7.5.4.5	Pro	P

Hotel pursuant to section 7.5.4.5	Pro	P However, hotels located in the R-PS4 district are permitted to have accessory uses that are customarily associated with the operation of a hotel or apartment building.
Suite hotels pursuant to section 7.5.4.5	Pro	P*
Hostel pursuant to section 7.5.4.5	Pro	Pro
OFFICE		
COMMERCIAL		
Commercial	Pro	Pro However, buildings in the R-PS4 districts shall be limited to the following are permitted as accessory uses: (I) Commercial, office, eating or drinking uses with access from the main lobby or from the street. (II) Retail or personal service establishments.
Accessory outdoor bar counters, provided that the accessory outdoor bar counter is not operated or utilized between midnight and 8:00 a.m.; however, for an accessory outdoor bar counter which is located on a property that is abutting a property with an apartment unit, the accessory outdoor bar counter may not be operated or utilized between 8:00 p.m. and 8:00 a.m.	Pro	Pro
Entertainment establishments	Pro*	Pro*
Outdoor entertainment establishments	Pro	Pro
Open air entertainment establishments	Pro	Pro
Neighborhood Impact establishments	Pro	Pro However, in the R-PS4 district, this use is permitted, as an accessory use in oceanfront hotels with 250 or more hotel units, as a conditional use. Access to the establishment entrance shall be only from the interior lobby of the hotel and not from the street. In addition, in the R-PS4 district, this use is also permitted as an accessory use to an oceanfront apartment building with more than 300 units that is adjacent to a park, as a conditional use, provided that the accessory use is located in a separate building from the primary use, and the accessory use is a minimum of 8,000 square feet in size.
Alcoholic beverage establishments pursuant to the regulations set forth in	Pro	A *

chapter 6 of General Ordinances		
Pawnshop	Pro*	Pro*
Dance Hall	Pro*	Pro*
Accessory Restaurant or Bar that serve Alcohol	Pro	A*
Gambling and casinos pursuant to section 7.1.8	Pro	Pro
Rentals or leases of mopeds, motorcycles, and motorized bicycles pursuant to section 7.1.8	Pro	Pro
Neighborhood and Retail Fulfillment Centers pursuant to section 7.1.8	Pro	Pro
CIVIC		
Religious Institutions with occupancy of 199 persons or less	P	P
Religious Institutions with occupancy of more than 199 persons	C	C
Institutional	C	C
CIVIL SUPPORT		
EDUCATIONAL		
INDUSTRIAL		
Industrial Uses	Pro	Pro
OTHER		
Commercial and Noncommercial Parking Lots and Garages	C	C
P—Main Permitted Use C—Conditional use A — Accessory use Pro—Prohibited Use * See Supplemental Uses Below		

* * *

7.5.2 HEIGHT REGULATIONS EXCEPTIONS (SUPPLEMENTARY DISTRICT REGULATIONS)

7.5.2.1 Height regulation exceptions and rooftop additions.

For all districts, except RS-1, 2, 3 and 4 (single-family residential districts).

- a. The height regulations as prescribed in these land development regulations shall not apply to the following when located on the roof of a structure or attached to the main structure. For exceptions to the single-family residential districts, see section 7.2.2.3.b.9.
 1. Air conditioning, ventilation, electrical, plumbing equipment or equipment rooms.
 2. Chimneys and air vents.
 3. Decks, not to exceed 3 feet above the main roofline and not exceeding a combined deck area of 50 percent (50%) of the enclosed floor area immediately one floor below.

4. Decorative structures used only for ornamental or aesthetic purposes such as spires, domes, belfries, not intended for habitation or to extend interior habitable space. Such structures shall not exceed a combined area of 20 percent (20%) of the enclosed floor area immediately one floor below.
5. Elevator bulkheads or elevator mechanical rooms.
6. Flagpoles subject to the provisions of section 6.2.9.
7. Parapet walls, not to exceed three feet, 6 inches above the main roofline unless otherwise approved by the design review board up to a maximum of 25 feet in height.
8. Planters, not to exceed 3 feet in height above the main roofline.
9. Radio, television, and cellular telephone towers or antennas, and rooftop wind turbines.
10. Stairwell bulkheads.
11. Skylights, not to exceed 5 feet above the main roofline.
12. Stage towers or scenery lofts for theaters.
13. Swimming pools, whirlpools or similar structures, which shall have a 4-foot wide walkway surrounding such structures, not to exceed 5 feet above the main roofline.
14. Trellis, pergolas or similar structures that have an open roof of cross rafters or latticework.
15. Water towers.
16. Bathrooms required by the Florida Building Code, not to exceed the minimum size dimensions required under the Building Code, provided such bathrooms are not visible when viewed at eye level (5 feet, 6 inches from grade) from the opposite side of the adjacent right-of-way; for corner properties. Such bathrooms shall also not be visible when viewed at eye level (5 feet, 6 inches from grade) from the diagonal corner at the opposite side of the right-of-way and from the opposite side of the side street right-of-way.
17. Solar panels.
18. Wind turbines on oceanfront properties.
19. Sustainable roofing systems.
20. Display or screen structures, projection devices, lobby, concession space, and sound attenuation and screening devices, any of which serve an outdoor movie theater fronting on Alton Road as provided in section 7.2.11.2.e of this chapter.
21. Roof insulation, For flats roofs, up to twelve (12") inches of insulation shall be an allowable height exception and may be located above the roof slab. Portions of insulation exceeding twelve (12") inches above the roof slab shall be included in the overall height of the home.

* * *

7.5.3 SUPPLEMENTARY YARD REGULATIONS

* * *

7.5.3.2 Allowable encroachments within required yards for districts other than single-

family districts.

The following regulations shall apply to allowable encroachments in all districts except single-family residential districts, unless otherwise specified in this Code.

* * *

- f. *Central air conditioners, emergency generators, swimming pool equipment, and other mechanical equipment.* Accessory central air conditioners, generators, swimming pool equipment, and any other mechanical equipment, including attached screening elements, may occupy a required side or rear yard, ~~in townhome or in the RM-1 residential multifamily low intensity districts only,~~ provided that:
1. They are not closer than 5 feet to a rear or interior side lot line or 10 feet to a side lot line facing a street. The Planning Director may approve setbacks for central air conditioners that are less than 5 feet from a rear or side interior lot line for buildings with legally nonconforming setbacks, if it is demonstrated that there are no practical alternatives for the location of the equipment.
 2. The maximum height of the equipment including attached screening elements, shall not exceed 5 feet above current flood elevation, with a maximum height not to exceed 10 feet above grade, as defined in section 1.2.1, of the lot at which they are located.
 3. If visible from the right-of-way, physical and/or landscape screening shall be required.
 4. Any required sound buffering equipment shall comply with the setback requirements specified in subsection f.1 of this section.
 5. If the central air conditioning and other mechanical equipment do not conform to subsections 1, 2, 3, and 4 above, then such equipment shall follow the setbacks of the main structure.
 6. Washers and dryers located in the RM-1 district, which are abutting and connected to an existing building, shall comply with the following:
 - A. Washers and dryers shall be for the sole use of building residents.
 - B. Washers and dryers may be located closer than 5 feet from a rear or interior side lot line, provided there are not adverse impacts on pedestrian circulation.
 - C. Washers and dryers shall be setback a minimum of 50 feet from the front property line, and shall not be located within any open courtyards.
 - D. Washers and dryers shall be physically screened, so that they are not visible from a public street or sidewalk.
 - E. The overall height of washers and dryers may exceed 10 feet above grade, if required to be located at or above minimum flood elevation.
- g. *Driveways.* Driveways and parking spaces leading into a property located in townhome (TH) districts are subject to the following requirements, unless otherwise noted in specific districts:
1. Driveways shall have a minimum setback of 4 feet from the side property lines.
 2. Driveways and parking spaces parallel to the front property line shall have a

minimum setback of 5 feet from the front property line.

3. Driveways and parking spaces located within the side yard facing the street shall have a minimum setback of 5 feet to the rear property line.
4. Driveways and parking areas that are open to the sky within any required yard shall be composed of porous pavement or of cool pavement ~~shall have a high albedo surface consisting of a durable material or sealant~~, as defined in section 1.2.1 of this Code.
5. Driveways and parking areas composed of asphalt that does not have a high albedo surface, as defined in section 1.2.1 of this Code, shall be prohibited.

* * *

o. *Projections.* Every part of a required yard shall be open to the sky, except as authorized by these land development regulations. The following may project into a required yard for a distance not to exceed 25 percent (25%) of the required yard up to a maximum projection of 6 feet, unless otherwise noted.

1. Belt courses.
2. Chimneys.
3. Cornices.
4. Exterior unenclosed private balconies.
5. Ornamental features.
6. Porches, platforms and terraces up to 30 inches above the adjusted grade elevation of the lot, as defined in Chapter 1 of these Land Development Regulations.
7. Roof overhangs.
8. Sills.
9. Window or wall air conditioning units.
10. Bay windows (not extending floor slab).
11. Walkways: Maximum 44 inches. May be increased to a maximum of 5 feet for those portions of walkways necessary to provide Americans with Disabilities Act (ADA) required turn around areas and spaces associated with doors and gates. Walkways in required yards may exceed these restrictions when approved through the design review or certificate of appropriateness procedures, as applicable, and pursuant to section 2.5.3. Notwithstanding the foregoing, when required to accommodate ADA access to an existing contributing building within a local historic district, or National Register District, an ADA walkway and ramp may be located within a street side or interior side yard, with no minimum setback, provided all of the following are adhered to:
 - A. The maximum width of the walkway and ramp shall not exceed 44 inches and 5 feet for required ADA landings;
 - B. The height of the proposed ramp and landing shall not exceed the finished first floor of the building(s); and
 - C. The slope and length of the ramp shall not exceed that which is necessary to meet the minimum Building Code requirements.

Additionally, subject to the approval of the design review board or historic preservation board, as applicable, an awning may be provided to protect users of the ADA walkway and ramp from the weather.

- 12. Electric vehicle charging stations and fixtures, located immediately next to an off-street parking space, shall be permitted where driveways and parking spaces are located.
- 13. Planters, not to exceed 4 feet in height, when measured from the finished floor of the primary structure.
- 14. Bicycle parking racks, subject to the design review or certificate of appropriateness criteria, as applicable.
- 15. Art installations, subject to the approval of the design review board or historic preservation board, as applicable.

* * *

7.5.4 SUPPLEMENTARY USE REGULATIONS

* * *

7.5.4.5 Suites hotel, apartment hotel, hostel, and hotel.

* * *

- c. Hotels and hotel units, as defined in section 1.2.2, shall conform with the following regulations:
 - 1. Hotel units shall comply with the minimum unit size requirements in the underlying zoning district.
 - 2. Cooking facilities in hotel units shall be limited to one microwave oven, one sink and one five-cubic-foot refrigerator.
 - 3. Hotels located in the C-PS1, C-PS2, MXE, R-PS3, R-PS4, RM-1, RM-2 and RM-3 zoning districts, as well as the Sunset Harbour neighborhood, generally bounded by Purdy Avenue, 20th Street, Alton Road, and Dade Boulevard, shall not exceed the following occupancy limits per individual unit:

* * *

7.5.4.13 Accessory Uses

* * *

- b. **Permitted accessory uses.**
The following are permitted accessory uses:
 - ~~1. Hotels located in the districts below:~~

- ~~A. Hotels located in the RM-3 or R-PS4 district are permitted to have accessory uses that are customarily associated with the operation of a hotel or apartment building.~~
- ~~B. Hotels located in the RM-2 district are permitted to have accessory uses that is are customarily associated with the operation of a hotel or apartment building, except for the following:

 - ~~I. dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open air entertainment establishments, unless otherwise provided in the RM-2 district regulations set forth in section 7.2.5.~~
 - ~~II. Outdoor Bar Counters~~~~
- ~~C. Where permitted, hotels located in the RM-1 district shall be limited to the following accessory uses:

 - ~~I. A dining room operated solely for registered hotel visitors and their guests, located inside the building and not visible from the street, with no exterior signs, entrances or exits except as required by the applicable Building Code.~~
 - ~~II. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.~~
 - ~~III. Washers and dryers, which shall be located inside a structure or not visible from a right-of-way~~
 - ~~IV. Hotels located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.~~~~
- 2. Apartment buildings shall be limited to the following accessory uses:
 - A. Mechanical support equipment and administrative offices and uses that maintain the operation of the building.
 - B. Washers and dryers, which shall be located inside a structure or not visible from a right-of-way.
 - C. A dining room which is operated solely for the residents in the building shall be located inside the building and shall not be visible from the street with no exterior signs, entrances or exits except for" those required by the applicable Building Code. However, a dining room shall not be allowed in the RM-1 district except for those dining rooms associated with adult congregate living facilities.
 - D. One automatic teller machine shall be permitted on the exterior walls of buildings, when associated with an accessory commercial use allowed under section 7.5.4.13.b.2.E, except in historic districts. The exact location and manner of placement for automatic teller machines shall be subject to design review approval.
 - ~~E. Buildings in the RM-3 and R-PS4 districts shall be limited to the following accessory uses:

 - ~~I. Commercial, office, eating or drinking uses with access from the main lobby or from the street.~~
 - ~~II. Retail or personal service establishments.~~~~

- F. Health clubs, for use by residents or open to the public for buildings in the RM-2 district. A health club for use by building residents only may be permitted in the RM-1 district.
 - G. Any accessory commercial use as permitted herein shall only be located on those levels of a building where there are no apartment units on such levels. This provision shall not apply to home based business offices as provided for in section 7.5.5.6.
 - H. Family day care facilities as defined in section 7.5.4.13.d.2.
 - I. One property management office for the purpose of managing residential units within the building.
 - ~~J. Buildings in the RM-2 district in the area bounded by Indian Creek Drive, Collins Avenue, 41st Street and 44th Street that face the RM-3 district (MAP EXHIBIT-1) may have restaurant, coffee house, sundry shops, or food market uses located in ground floor space not to exceed 70 percent (70%) of the ground floor. These uses may have direct access to the street. Dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments, or open air entertainment establishments are not permitted. Outdoor music (including background music) is prohibited. Any outdoor uses on Indian Creek Drive shall be limited to no later than 11:00 p.m. Parking requirements for accessory commercial uses in newly constructed buildings must be satisfied by providing the required parking spaces, and may not be satisfied by paying a fee in lieu of providing parking. There shall be no variances from these provisions.~~
 - K. Apartment buildings located in the RM-1, 2 or 3 districts are permitted to have religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.
3. An apartment hotel located on an oceanfront or bayfront lot shall be permitted to have any accessory use that is commonly associated with a hotel if the use meets the below criteria and those listed in section 7.5.4.13:
- A. 75 percent (75%) of the total units shall be hotel rooms or the building shall contain at least one hundred (100) hotel rooms.
 - B. The registration desk shall be staffed 24-hours per day.
 - C. Mail compartments for the hotel units.
 - D. Central telephone directly connected to the hotel units.
 - E. The hotel units shall have independent electrical and water meters from the apartment units.
 - F. The applicant shall provide the city with a listing of the hotel units prior to the issuance of a certificate of use.
4. Office, retail and commercial uses shall be permitted to have the following accessory uses:
- A. Storage of supplies or merchandise normally carried in stock in connection with a permitted use.
 - B. Automatic teller machines may be permitted on the exterior walls of buildings, if approved under the design review or certificate of appropriateness process, as applicable. The exact location, number and manner of placement for automatic teller machines shall be subject to the

certificate of appropriateness or design review process, as applicable approval.

- C. Buildings with office, retail and commercial uses are permitted to contain religious institutions as a matter of right up to 199 occupancy, and over that occupancy shall be a conditional use.

b. Regulation of accessory uses in specialized zoning districts.

- 1. All accessory uses shall comply with the general provisions of this section.
- 2. Permitted accessory uses.
 - A. Hospital district (HD): See section 7.2.19.
 - B. Marine recreational (MR), civic and convention center (CCC), government use (GU) and waterway districts 1 and 2 (WD-1, 2): Any use that is customarily associated with a main permitted use and consistent with the criteria listed in section 7.5.4.13.

~~c. Permitted accessory uses in single-family districts.~~

- ~~1. *Generally.* Permitted accessory uses in single-family districts are those uses which are customarily associated with single-family houses and limited to the occupants of the home. Such uses include, but are not limited to, marine structures and decks for the storage of watercraft, swimming pools, spas, , tennis courts and, where permitted, accessory dwelling units.~~
- ~~2. *Permitted accessory uses.* The following are permitted accessory uses in single-family districts:
 - A. Family day care facilities for the care of children are permitted, and shall not have any restriction regarding unit size, if the following mandatory criteria are met:
 - ~~I. A family day care facility shall be allowed to provide care for one of the following groups of children:
 - 1. A family day care facility may care for a maximum of five (5) preschool children from more than one unrelated family and a maximum of five (5) elementary school siblings of the preschool children in care after school hours. The maximum number of five (5) preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten (10) under this subsection.~~
 - 2. When the home is licensed and provisions are made for substitute care, a family day care facility may care for a maximum of five (5) preschool children from more than one unrelated family, a maximum of three (3) elementary school siblings of the preschool children in care after school hours, and a maximum of two (2) elementary school children unrelated to the preschool children in care after school hours. The maximum number of five (5) preschool children includes preschool children in the home and preschool children received for day care who are not related to the~~

- resident caregiver. The total number of children in the home may not exceed ten (10) under this subsection.
- ~~3. When the home is licensed and provisions are made for substitute care, a family day care facility may care for a maximum number of seven (7) elementary school children from more than one unrelated family in care after school hours. Preschool children shall not be in care in the home. The total number of elementary school children in the home may not exceed seven (7) under this subsection.~~
- ~~II. Signs on the property advertising the day care facility are prohibited.~~
- ~~III. The family day care facility complies with all applicable requirements and regulations of the state department of children and family services and the city's police, fire and building services departments. All of the applicable Building Code, city property maintenance standards and fire prevention and safety code violations shall be corrected prior to the issuance of a city occupational license.~~
- ~~IV. Play area shall only be located in the rear yard and equipment shall be limited to three (3) pieces of equipment.~~
- ~~V. Day care is prohibited on Sundays and the hours of operation are limited to Monday through Friday from 8 am to 8 pm and Saturday from 8 am to 5 pm. Hours of operation beyond these shall require conditional use approval.~~
- ~~VI. The building shall maintain the external appearance of a single-family home.~~
- ~~VII. Site plan shall be approved by the planning and zoning director. The plan shall include landscaping and a permitted wall or fencing enclosing the rear yard.~~
- ~~VIII. Family day care facilities shall not be located within 400 feet of another such facility; except that this restriction shall not apply to state-licensed family day care homes as defined in F.S. § 402.302(5).~~
- ~~B. The planning director may approve a second set of cooking facilities if the residence contains at least 3,600 square feet of unit size and the arrangement of such facilities or conditions at the property shall not result in the creation of an apartment units. No more than one (1) electric meter shall be placed on the property and that portion of the residence having the second set of cooking facilities shall not be rented. The restrictions set forth in this subsection 7.5.4.13.d.2.B shall not apply to an accessory dwelling unit (ADU).~~
- ~~C. An accessory dwelling unit (ADU) is permitted pursuant to the following requirements:~~
- ~~I. *Maximum number.* No more than one ADU shall be permitted per single-family lot.~~
- ~~II. *Maximum area.* The area of an ADU shall be included in the overall unit size calculation for the site. In no instance shall the total size of the ADU exceed 600 square feet or ten percent (10%) of the size of~~

~~the main home on the subject site, whichever is greater. Notwithstanding the foregoing, the maximum size of an ADU shall not exceed 1,500 square feet.~~

~~III. *Minimum area.* An ADU shall be a minimum of 200 square feet in area.~~

~~IV. *Existing accessory structures.* For existing accessory structures, built prior to January 1, 2019, the aforementioned maximum and minimum areas shall not be applicable to an ADU, unless the unit is expanded in size.~~

~~V. *Location.* An ADU may be attached to the primary residence with a separate entrance that is secondary to the entrance to the main home subject to any limitations on the primary structure as set forth in the land development regulations. Additionally, the entire site shall maintain the external appearance of a single-family home. Alternatively, an ADU may be located in an accessory building, subject to the requirements and limitations for accessory buildings in single-family districts identified in section 7.2.2.3.b.11.A~~

~~VI. *Kitchens.* An ADU may contain a full kitchen facility.~~

~~VII. *Utilities.* A separate electric meter may be provided for an ADU.~~

~~VIII. *Lease.* Any lease of an ADU shall be subject to the following requirements:~~

~~1. Unless otherwise provided herein, the use of an ADU shall be limited to the use of the family occupying the primary dwelling, temporary guests, or servants of the occupants of the primary dwelling, and shall not be rented or leased.~~

~~2. The lease of an ADU to a family unrelated to the family occupying the primary dwelling unit shall only be permitted as follows:~~

~~i. Within an ADU that (1) was issued a certificate of occupancy on or before October 26, 2019, and (2) is located on a property that is owner-occupied and located between Dade Boulevard on the south and Pine Tree Drive Circle on the north.~~

~~ii. Within an ADU located on a property that is owner-occupied and located in the Palm View Historic District.~~

~~iii. Each year, evidence of a property's ownership shall be provided to the planning director, subject to the director's approval, in order to confirm the property's eligibility for the rental of an ADU. If a property ceases to be owner-occupied, the renewal of a lease for an ADU shall be prohibited, and residents of the ADU shall vacate the premises upon termination of the lease. It shall be the responsibility of the property owner to satisfy the yearly requirement for providing evidence as to ownership and to notify the city of any change to the status of the property's ownership.~~

- ~~3. The lease of an ADU to a family (as defined in section 1.2.2) unrelated to the family occupying the primary dwelling unit for a period less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under section 7.5.4.13.d.2.C.II. to original leaseholders, shall be prohibited.~~
- ~~4. Property owners seeking to allow for the lease of an ADU unit to a family unrelated to the family occupying the primary dwelling unit must obtain all applicable fire and building permits, and a certificate of use, as applicable, permitting the lease of the ADU, subject to the requirements listed above. The application shall provide proof of compliance with the requirements of this section 7.5.4.13.d.2.C. Additionally, the applicant shall provide an affidavit agreeing to and affirming the applicant's understanding of the requirements in this section 7.5.4.13.d.2.C.~~
- ~~5. A violation of these requirements shall be subject to the enforcement and enhanced penalty provisions for leases of single-family homes set forth in subsection 7.5.4.13.d.2.E.~~
- ~~6. Tracking. The planning director shall maintain a database of all approved ADUs in the city, including statistics relating to the number of certificates of use issued, and any violations issued pursuant to this section 7.5.4.13.d.2.C.~~

~~D. Home based business office, as provided in section 7.5.5.6.~~

~~E. Leases of single-family homes to a family (as defined in section 1.2.2) for not less than six (6) months and one (1) day, including extensions for lesser periods of leases permitted under this subsection to original leaseholders.~~

~~The advertisement, as defined in section 7.2.2.2.d.1.B, of single-family homes for a period of less than six (6) months and one (1) day shall not be permitted for single-family districts, and shall be a violation of this subsection 7.5.4.13.d.2.E.~~

~~I. Enforcement.~~

- ~~1. Violations of subsection 7.5.4.13.d.2.E shall be subject to fines as provided in F.S. ch. 162.1 Fines for repeat violations by the same offender shall increase regardless of locations. The director of the code compliance department must remit a letter to the Miami-Dade Property Appraiser and the Miami-Dade Tax Collector, with a copy of the special magistrate order adjudicating the violation, that notifies these governmental agencies that the single-family residential property was used for transient rental or occupancy at the single-family residential premises.~~
- ~~2. In addition to or in lieu of the foregoing, the city may seek an injunction by a court of competent jurisdiction to enforce compliance with or to prohibit the violation of this section.~~

- ~~3. Any code compliance officer may issue notices for violations of this subsection 7.5.4.13.d.2.E. Violations shall be issued to the owner, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this subsection 7.5.4.13.d.2.E. In the event the record owner of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the owner at its mailing address in the property appraiser's records.~~
 - ~~4. The advertising or advertisement for the transient rental or occupancy, short-term rental for period(s) of less than six (6) months and one (1) day of the residential property for the purpose of allowing such transient rental or occupancy, short-term rental or rental for period(s) of less than six (6) months and one (1) day at the residential premises is direct evidence that there is a violation of subsection 7.5.4.13.d.2.E, which is admissible in any proceeding to enforce subsection 7.5.4.13.d.2.E. The advertising or advertising evidence raises a rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement is direct evidence that the residential property was used in violation of subsection 7.5.4.13.d.2.E.~~
- ~~II. Enhanced penalties. The following enhanced penalties must be imposed, in addition to any mandatory fines set forth in subsection 7.5.4.13.d.2.E.I, above, for violations of subsection 7.5.4.13.d.2.E:~~
- ~~1. Enhanced penalties for violation of subsection 7.5.4.13.d.2.E:
 - ~~i. The transient rental or occupancy must be immediately terminated, upon confirmation that a violation has occurred, by the Miami Beach Police Department and the Code Compliance Department.~~
 - ~~ii. A certified copy of an order imposing the civil fines and penalties must be recorded in the public records, and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. The certified copy of an order must be immediately recorded in the public records, and the city may foreclose or otherwise execute upon the lien.~~~~

