

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
May 11, 2016

Mayor Philip Levine
Commissioner John Elizabeth Alemán
Commissioner Ricky Arriola
Commissioner Kristen Rosen Gonzalez
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

C4 - Commission Committee Assignments

- C4E Referral To The Planning Board. Proposed Ordinance Amendment Pertaining To Non-Conforming Hotel Uses In The RM-1 Zoning District West Of Alton Road.
(Sponsored by Commissioner Ricky Arriola)
(Attachment: Ordinance)
- C4F Referral To The Planning Board, Design Review Board And Historic Preservation Board. Proposed Ordinance Amendment To Chapter 138 Of The Land Development Regulations Pertaining To Signage.
(Sponsored by Commissioner Ricky Arriola)
(Attachment: Ordinance)
- C4G Referral To The Planning Board - Proposed Ordinance Amendment To Chapter 130 Of The Land Development Regulations Pertaining To Off-Street Parking.
(Sponsored by Commissioner Michael Grieco)
(Attachment: Ordinance)

- C4O Referral To The Finance And Citywide Projects Committee Meeting Of May 20, 2016 - Discussion Relating To City Clerk Rafael E. Granado's Annual Performance Evaluation.
(Sponsored by Mayor Philip Levine)
(Memorandum)

C6 - Commission Committee Reports

- C6C Report Of The April 22, 2016 Finance And Citywide Projects Committee Meeting: **1.** Discussion Regarding Referral To The Neighborhood/Community Affairs Committee To Discuss Proposed Site Options For New Fire Station No. 1. **2.** Discussion Regarding The Creation Of The Ocean Court Green Alley, Española Way (East) Green Alley. **3.** Discussion To Consider And Explore The Impact Of A Car Sharing Pilot Program. **4.** Discussion Regarding A Review Of The Fine Schedule For Littering On The Beach. **5.** Discussion Regarding Miami New Drama Becoming The Resident Theater And Venue Manager For The Colony Theater As A Pilot Program. **6.** Discussion Regarding The Creation Of The City Of Miami Beach Transportation Fund. **7.** Discussion To Consider Adopting The Disability Access Committee's Request For The City To Support Power Access Inc. For Disability Awareness Events. **8.** Discussion To Consider The Closed Captioning For The Hearing Impaired Of The City's Video-Recorded Meetings And Events. **9.** Discussion Regarding The Vacation Of A Portion Of The Alley Between Alton Road And West Avenue, Just South Of 17th Street – As Part Of A Proposed Mixed Use Project That Will Include Residential, Retail And Structured Parking, Including Public Parking.
(Memorandum)

R7 - Resolutions

- R7E A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee And Approving The Attached Third Amended And Restated Rules And Regulations For Beachfront Concession Operations.
(Tourism, Culture & Economic Development)
(Exhibits to Memorandum & Resolution with Attachments)
- R7K A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Have The Communications Department Create An Educational Piece On City's Position Regarding To Illegal Short-Term Rentals, Initiate Contact With Realtors And Post On Social Media.
(Sponsored by Commissioner Michael Grieco &
Co-Sponsored by Commissioner John Elizabeth Alemán)
(Code Compliance)
(Memorandum)

NON-CONFORMING HOTEL USES

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES", ARTICLE IX, "NONCONFORMANCES", TO MODIFY THE DEVELOPMENT REGULATIONS FOR NON-CONFORMING HOTEL USES IN THE RM-1 ZONING DISTRICT WEST OF ALTON ROAD; BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," ARTICLE II, "DISTRICT REGULATIONS," DIVISION 3, "RESIDENTIAL MULTIFAMILY DISTRICTS," SUBDIVISION II, "RM-1 RESIDENTIAL MULTIFAMILY LOW INTENSITY," TO CREATE AN EXCEPTION FOR A NON-CONFORMING HOTEL USE ON BELLE ISLES THAT DECREASE STRUCTURAL NONCONFORMITY WITH CURRENT CODE BY UP TO 50 PERCENT; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City Code contains provisions for non-conforming uses in the City; and

WHEREAS, the City of Miami Beach desires to amend existing regulations pertaining to non-conforming hotel uses within the RM-1 zoning districts; and

WHEREAS, the Planning Board recommended approval of this Ordinance at its meeting dated _____, 2016 by a vote of ____; and

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

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

SECTION 1. Chapter 118, "Administration and Review Procedures", Article IX, "Nonconformances", of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 118-395. - Repair and/or rehabilitation of nonconforming buildings and uses.

(a) *Nonconforming uses.* If a building which contains a nonconforming use is, repaired or rehabilitated at a cost exceeding 50 percent of the value of the building as determined by the building official, it shall not be thereafter used except in conformity with the use regulations in the applicable zoning district contained in these land development regulations and all rights as a nonconforming use are terminated.

(b) *Nonconforming buildings.*

- (1) Nonconforming buildings which are repaired or rehabilitated by less than fifty (50) percent of the value of the building as determined by the building official shall be subject to the following conditions:

* * *

- (2) Nonconforming buildings which are repaired or rehabilitated by more than 50 percent of the value of the building as determined by the building official, shall be subject to the following conditions:

* * *

(c) Hotel and Accessory Uses.

- (1) Notwithstanding the foregoing provisions, a nonconforming hotel with accessory uses located in a RM-1 zoning district west of Alton Road, that is not increasing the unit count or increasing the size and/or intensity of permitted accessory uses, may be redeveloped if the following conditions are met:

- a. Any new addition shall meet all requirements of the city property maintenance standards, the applicable Florida Building Code and the Life Safety Code.
- b. Any new addition shall comply with the current development regulations in the zoning district in which the property is located, including, but not limited to all landscape requirements.
- c. Ground level additions shall be attached to the main structure.
- d. The height of any ground level addition to an existing structure, whether attached or detached, shall be limited to three (3) stories, not to exceed the height of the main roof of the existing structure. In the event the existing structure is three (3) stories in height or higher, the proposed addition shall not exceed the height limitations of the underlying zoning district.
- e. Ground level additions, whether attached or detached, shall follow the established lines of the interior side setbacks of the main existing structure on the site. Any existing nonconforming interior side setback may be extended or recreated, provided the minimum interior and/or street side setback is five (5) feet.
- f. Only fifty percent (50%) of the total structures on the property site may be demolished for the purposes of new construction.
- g. No building or structure shall be permitted within an existing courtyard. For purposes of this subsection, a courtyard shall be defined as a grade level space, open to the sky, which is enclosed on at least two (2) sides by an existing building or structure on the same property and is an established architectural component of the site or building design by virtue of significant features and/or finishes, including, but not limited to,

paving patterns, fountains, terraces, walkways, or landscaping.

- h. Each level of new construction or additions, whether attached or detached, shall have a minimum floor height of twelve (12) feet.
- i. If an alley exists, no front curb cut shall be permitted. If no alley exists, any curb-cut required shall not exceed twenty-four (24) feet in width.
- j. Only existing, licensed accessory uses shall be permitted to remain on sites meeting all of the regulations stated herein.
- k. No increase in occupancy, square footage or intensity for existing accessory food and beverage establishments shall be permitted.

SECTION 2. Chapter 142, "Zoning Districts And Regulations", Article II, "District Regulations", Division 3, "Residential Multifamily Districts", Subdivision II, "RM-1 Residential Multifamily Low Intensity", of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-152. - Main permitted uses.

The main permitted uses in the RM-1 residential multifamily, low density district are single-family detached dwelling; townhomes; apartments; hotels, for properties fronting Harding Avenue or Collins Avenue, from the City Line on the north, to 73rd Street on the south; and bed and breakfast inn (pursuant to article V, division 7 of this chapter). Notwithstanding the foregoing, hotels with accessory uses located west of Alton Road shall be permitted to be redeveloped in accordance with the provisions of section 118-395(b)(8).

SECTION 3. CODIFICATION.

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

SECTION 4. REPEALER.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

First Reading: , 2016

Second Reading: , 2016

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

Underline = new language

~~Strikethrough~~ = deleted language

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SIGNAGE REGULATIONS

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS (LDR'S) OF THE CITY CODE, BY AMENDING CHAPTER 138, "SIGNS," BY; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, the current signage regulations have over time been added to and become complicated to understand and implement

WHEREAS, it is in the best interest of the City to promote safe and seemly commercial activity in the city, through commerce friendly design and construction; and

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

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

SECTION 1. That Chapter 138, "Signs," is hereby amended and replaced in the Land Development Regulations of the Code of the City of Miami Beach, FL as shown in Exhibit A.

ARTICLE I. - IN GENERAL

Sec. 138-1. - Purpose.

The purpose of this chapter is to provide comprehensive regulations for signage within the City. The following regulations and standards are intended to permit signs that through their design, location, numeration, and construction, will optimize communication, promote sound a healthy environment for housing and commerce, as well as preserve the architectural character of the city and the constitutional right of free speech.

Sec. 138-2. – Applicability & Severability

The regulations in this chapter apply to all signs and are in addition to the regulations contained elsewhere in these land development regulations. Except for signs exempted in Section 138-4, all signs shall require permits. For the purposes of this chapter, "sign" or "signs" will include all associated supporting structures.

Pursuant to the procedures and standards set forth in chapter 118, article VIII, the Board of Adjustment may grant a variance permitting the erection and maintenance of a sign which does not conform to the regulations set forth for maximum size, location or graphics, illustrations, and other criteria set forth in these land development regulations. Appeals from decisions of administrative officials regarding the application of these restrictions of this chapter to particular signs shall be heard by the Board of Adjustment pursuant to the procedures set forth in chapter 118, article II, division 5. Where specific applicable regulations have not been established, all

sign permit application shall be reviewed by the Design Review Board pursuant to the procedures set forth in chapter 118, article VI.

These regulations are specifically intended to be severable such that if any section, subsection, clause or phrase of these regulations is found to be invalid or unconstitutional by the decision of a jurisdictional court, the decisions shall not affect the validity of the remaining provisions.

Sec. 138-3. – General Requirements.

The following requirements apply with regards to signs, in addition to provisions appearing elsewhere in these land development regulations.

- a) Unless otherwise exempted in Sec. 138-5, no sign shall be erected, constructed, posted, painted, altered, maintained, or relocated without the issuance of a building permit or planning permit.
- b) Building permit applications shall be filed together with such drawing and specification as may be necessary to fully advise the city with the location, construction, materials, illumination, structure, numeration, design, and copy of the sign.
- c) Structural features and electrical systems shall be in accordance with the requirements of the Florida Building Code.
- d) No sign shall conflict with the corner visibility clearance requirements of section 142-1135
- e) All signs, unless otherwise stipulated in this chapter, shall be located only upon the lot on which the business, residence special use, activity, service, product or sale is.
- f) All signs shall be maintained in good condition and appearance.
- g) Any persons responsible for the erection or maintenance of a sign which fails to comply with the regulations of this chapter shall be subject to enforcement procedures as set forth in section 114-8.
- h) No sign shall be approved for use unless it has been inspected and found to be in compliance with all the requirements of these land development regulations and applicable technical codes.

Sec. 138-4. - Exempt signs.

The following signs are exempted from permit requirement. All signs must be in accordance with the structural and safety requirements of the Florida Building Code.

- a) Official traffic signs, governmental information signs, and provisional warning signs, when required by a governmental agency.
- b) Address signs, not to exceed one per street frontage, maximum two square feet in area. Copy shall be limited to the address of the property.
- c) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter. Shall not exceed two square feet in area.
- d) Historical markers approved by the historic preservation board.
- e) Change of copy on a bulletin board, poster board, display encasement directory sign, changeable copy sign, or marquee.
- f) Signage on vehicles, only as detailed in Sec. 138-60 under Article IV.
- g) Temporary signs authorized by Sec. 138-131 of this chapter which are composed of paper, cardboard, plastic film or other similar material and are affixed directly to a window.

Sec. 138-5. - Prohibited signs and sign devices.

- a) No general advertising shall be constructed, painted, used, operated or maintained.
- b) No sign shall display or contain intermittent lights, pennants, streamers, banners, balloons, revolve or move.

- c) No sign shall copy or imitate any official governmental sign.
- d) False and misleading signs shall be unlawful to post.
- e) No sign shall provide a background of colored lights blending with the traffic signals to the extent of confusing a motorist when viewed from a normal approaching position of a vehicle at a distance of 25 to 300 feet.
- f) Signs which aren't securely affixed to the ground, are freestanding, or applied to trees, utility poles, bus benches, trash receptacles, or other unapproved supporting structures are prohibited.
- g) Except as otherwise permitted by these land development regulations, no sign indicating the presence of an accessory commercial use in a hotel, apartment-hotel, or apartment building located in a residential district shall be visible from a public street, walk, or other public way.
- h) Pole signs and Roof signs are prohibited. Legal nonconforming roof and pole signs may be repaired only as provided in section 138-10##
- i) Balloon signs are prohibited throughout the city. However, tethered balloon signs may be permitted if approved pursuant to special event review procedures.
- j) Signs on umbrellas, tables, chairs and any other furniture or fixtures associated with outdoor cafes or sidewalk cafes are prohibited unless otherwise expressly permitted in these land development regulations.
- k) Televisions or similar device, displaying images of any kind are not permitted to be located within the first ten feet of a storefront.

Sec. 138-6. - Removal required.

- a) If a sign does not comply with the provisions of these land development regulations and has not received a building permit, such sign and any auxiliary supporting structures shall be removed.
- b) Any sign associated with vacated premises shall either be removed, or altered so that the sign no longer displays visual aspects pertaining with the previous activity, by the owner or lessee no later than six months after the activity has ceased functioning.
- c) Notwithstanding the foregoing, the planning director, or designee, may waive the requirement for the removal of a sign, regardless of the permit status, if the sign is determined to be historic or architecturally significant.
- d) The code compliance department shall inquire of the planning director, or designee, prior to the issuance of any violation of this section, whether a waiver has been or will be issued pursuant to this section.

Secs. 138-7—138-12. - Reserved.

ARTICLE II. – SIGN DESIGN STANDARDS

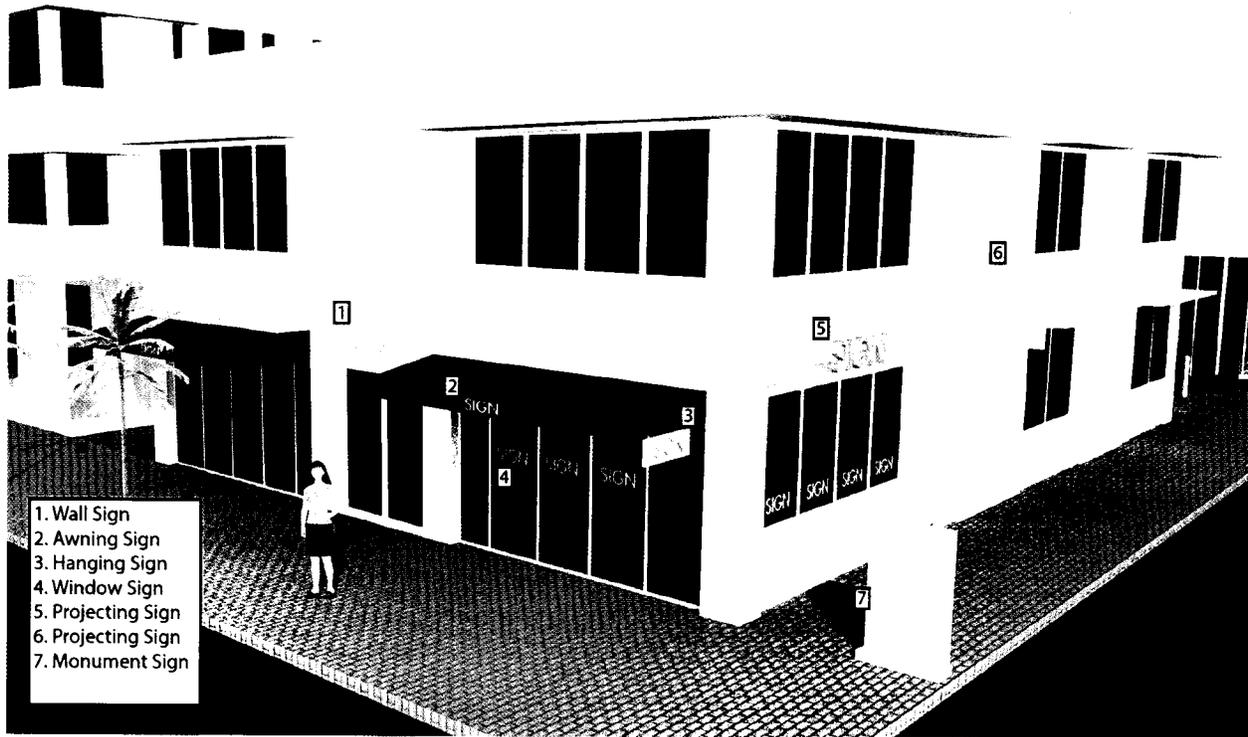
Sec. 138-13. – General Sign Design Standards

The following design standards apply to all signs unless otherwise exempted in this chapter or these land development regulations.

- (a) Establishment must have direct access to the street or waterway to be permitted a sign that faces a public right of way or waterway.
- (b) Signs must front a street or waterway. Signs may be permitted to front alleys where the alley frontage provides a means of public entrance, or is adjacent to a parking lot or garage.
- (c) Signs located above the ground floor shall be limited to the name of the building or the use that encompasses the largest amount of floor area in the building.

- (d) Electrical conduit, support structures, receptacle boxes, or any other operational devices associated with a sign shall be designed in such a manner as to be visually unnoticeable.
- (e) Sign copy, with the exception of window signs, will be limited to licensed permitted uses. Sign copy shall not indicate prices unless otherwise specified within this chapter.
- (f) Only one Wall, Projecting, or Detached sign will be permitted per allowed frontage for each principal or licensed accessory use, unless otherwise allowed in this chapter.
- (g) For signs that have two or more sides, the sum of the signage on all sides will count towards to the permitted area.
- (h) All signs shall be subject to design review procedures.

The following diagram shows an example of the signs described within this article:



Sec. 138-14 – Window Signs

- a) Licensed commercial establishments are permitted one sign on one window or door with copy limited to the address, business name, services, phone number and hours of operation.
 - 1. The size of the numerals for the address and store name shall not exceed six inches in height.
 - 2. The numerals and letter size for the services, phone number, and hours of operation shall not exceed two inches in height.
 - 3. The name of the establishment may be repeated more than once subject to design review
- b) An "open"/"closed" sign, illuminated or non-illuminated, shall be permitted. Such "open"/"closed" sign shall not exceed two (2) square feet; letters shall not exceed twelve (12) inches in height.

- c) The aggregate area of the above signs of this section shall not exceed five percent of the total glass window area and door area.
- d) If no other signs are associated with the use, the main permitted sign or signs may be located on the window with a total aggregate size not to exceed 20 square feet,
- e) Restaurants may also have a menu board besides other signs provided herein. When a menu board is affixed to a window, it shall be limited to an area of three square feet. If a menu display case is affixed to the building wall, it shall be limited to an overall area of four square feet.
- f) Commercial establishments that offer for sale or lease products which are not located on the premises (e.g., real estate) may place up to three display board type signs on the window. Such display boards shall be limited to six square feet each and are subject to design review approval.

Sec. 138-15 Hanging Signs

In all districts except RS-(1-4), one non-illuminated sign per frontage, not exceeding three square feet total, shall be allowed hanging from the underside of an awning or canopy. Hanging sign shall have a minimum height clearance of seven feet six inches, with letters not exceeding six inches.

Sec. 138-16 Awning Valance Signs

This section is in reference to signs painted, stamped, perforated or stitched on an awning, canopy, roller curtain or umbrella. For purposes of this section, a valance is defined as that vertical portion of the awning that hangs down from the structural brace. Signs on other surface areas of an awning, canopy or roller curtain are not permitted.

In all districts except RS-(1-4) and TC-(1-2), one sign on the valance of an awning or canopy shall be permitted.

- (a) The length of such sign shall not exceed 25 percent of the length of the awning, or the length of that portion of the awning or canopy associated with the establishment, up to a maximum of ten square feet.
- (b) Letters shall not exceed eight inches in height.
- (c) Signs on continuous awnings shall be placed centered on the portion of the valance that corresponds to the individual storefront and be a uniform color.
- (d) All valance signs shall be subject to the design review process.

Sec. 138-17 - Wall Sign

Wall Signs are signs attached to, and erected parallel to, the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall. Such signs shall be governed by the following chart:

Wall Sign			
Design Standards per Districts			
	Zoning Districts		
	CD-(1-3) C-PS (1-4) I-1 MXE TC-(1-2) RM-3 HD MR	RM-(1-2) R-PS (1-4) RO TC-3 RM-PS1 TH WD-(1-2)	RS-(1-4) SPE GC
Max Area Percentage	0.4 sq. ft. <u>0.75 sq. ft.</u> for every foot of linear frontage		
Max Area	<ul style="list-style-type: none"> • Max: 30 <u>100 sq. ft.</u> • Min: 20 <u>15 sq. ft.</u> 		GC & SPE: 30 sq. ft. RS-(1-4): 2 sq. ft.
Height Restrictions	Shall be not located above ground floor, except in apartment and hotel buildings that are two stories or higher	Prohibited above ground floor	
Max Quantity per Frontage	Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest max permitted area	One Wall, Projecting, or Detached	
Accessory Use	<ul style="list-style-type: none"> • Max 75% of main use sign, or 20 sq. ft., whichever is less • For uses located in hotel & apt. buildings, must have direct access to street/sidewalk; follows same regulations as Main Permitted Use 		Not Permitted
Special Conditions	Corner buildings may provide one combined sign instead of the two permitted signs. This sign shall be located on the corner of the building visible from both streets and shall have a maximum size of 40 square feet.		Residential Use: Copy limited to address & name of building
Supplemental Standards	Hotels, apartments-hotels, and commercial buildings two stories or higher will be permitted one building identification sign above the main roofline, with an area not to exceed one percent of the wall area on which it is placed.		

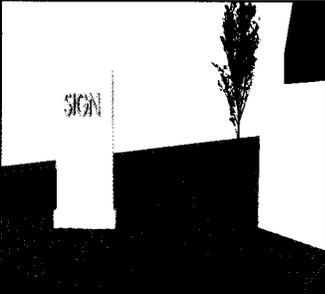
Sec. 138-18 - Projecting Sign

Projecting signs are signs attached to and projecting more than 12 inches from the face of a wall of a building. This includes marquee signs. A projecting sign which extends more than 36 inches above a roof line or parapet wall shall be designated as a roof sign. All sides of a projecting sign displaying signage will be calculated towards the max area. Such signs shall be governed by the following chart:

Projecting Sign			
Design Standards per Districts			
	Zoning Districts		
		CD-(1-3) C-PS (1-4) I-1 MXE TC-(1-2) RM-3 HD MR	RM-(1-2) R-PS (1-4) RO TC-3 RM-PS1 TH WD-(1-2)
Max Area	15 sq. ft.		
Height Restrictions	<ul style="list-style-type: none"> • Minimum 9'0" per Sec. 82-411 (b) • Letters max 6 inches 		
Max Quantity per Frontage	Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest max permitted area	One Wall, Projecting, or Detached	Not Permitted
Accessory Use		Main permitted use	
Special Conditions	<ul style="list-style-type: none"> • May be illuminated by an external lighting source through design review • Not permitted in HD 		

Sec. 138-19 - Detached Sign

Detached signs are signs not attached to or painted on a building but which are affixed to the ground. A sign attached to a surface detached from a building, such as a fence or wall, shall be considered a detached sign. All sides of a detached sign displaying signage will be calculated towards the max area. Such signs shall be governed by the following chart:

Detached Sign			
Design Standards per Districts			
	Zoning Districts		
		CD-(1-3) C-PS (1-4) I-1 MXE TC-(1-2) RM-3 HD MR	RM-(1-2) R-PS (1-4) RO TC-3 RM-PS1 TH WD-(1-2)
Max Area	<ul style="list-style-type: none"> • 15 sq ft • 5 ft if on perimeter wall 	<ul style="list-style-type: none"> • 15 sq ft • If sign setback 20 ft. from property line, max area may reach 30 sq. ft. • 5 ft if on perimeter wall 	Not Permitted
Height Restrictions	<ul style="list-style-type: none"> • 5 ft. max • Height may be permitted to exceed the maximum through the design review process. However at no time shall height exceed 10 ft. 		
Max Quantity per Frontage	Multiple signs for the same establishment may be permitted through the design review process if the aggregate sign area does not exceed the largest max permitted area	One Wall, Projecting, or Detached	
Setback Requirements	<ul style="list-style-type: none"> • Front yard: 10 ft • Interior side yard: 7.5 ft • Side yard facing a street: 10 ft • Perimeter wall sign: 0 ft 		
Accessory Use	Main permitted use		
Special Conditions	Not permitted in MXE	• In RO, maximum area 10 sq ft	

Sec. 138-20 – Supplemental Design Standards

- (a) Commercial buildings are allowed an exterior directory sign, attached to the building, up to six square feet in area, listing the names of all licensed uses within the building is permitted; sign material and placement shall be subject to approval through the design review process.
- (b) Artistic or super graphics and/or neon banding that have no commercial association are permitted, and may or may not face a street, with the approval of the design review board. If they are located in a local historic district or upon a historic site then it shall be reviewed by the joint design review and historic preservation board pursuant to chapter 118, article II.

Secs. 138-21—138-40. - Reserved.

ARTICLE III - Specific District & Setting Sign Regulations

Division 1 – Specific District Sign Regulations

Sec. 138-41 – Civic and Government Use and Convention Center District

The GU and CCC districts shall follow the sign regulations as determined by the surrounding districts as determined by the planning and zoning director. However, all sign regulations for municipal buildings, uses and sites within the CCC district which are wholly used by, open and accessible to the general public may be waived by the city commission as per subsection 142-425(d).

Sec. 138-42. - Lincoln Road Signage District.

The purpose of this section is to facilitate the substantial restoration of existing storefronts, facades and buildings, in accordance with the criteria and requirements of chapter 118, article X of these land development regulations, and to permit well designed, unique and proportional graphics and signage, which is consistent with the historic period of significance and which do not detract from the architectural character of the buildings, nor the established context of the surrounding streetscape. Additionally, this section is not intended to allow larger signs that do not adequately address the architectural and historic character of graphic signage that previously existed on Lincoln Road.

(a) For those properties fronting on Lincoln Road, and located in between the west side of Collins Avenue and the east side of Washington Avenue, the following shall apply:

- (1) Wall, projecting or other building signs, which exceed the number and overall square footage permitted under section 138-172, may be permitted, subject to the issuance of a certificate of appropriateness from the historic preservation board. The placement, design and illumination of such signage shall be subject to the review and approval of the historic preservation board, in accordance with the following:
 - a. A proportional relationship of text and graphics shall be required. All graphics must relate to the proposed use of the store for which the sign is proposed.
 - b. The total square footage of permitted signage, inclusive of non-text graphics, shall not exceed 35 percent of the building facade area. For purposes of this section, the building facade area shall be defined as the area located above the storefront and below the top of the parapet, in between the physical confines of a specific tenant space.
 - c. The text portion of the sign shall be limited to the name of the establishment and related products and services available on site only. Signage text not associated with the actual use, or incidental signage text, shall not be permitted.
 - d. The text portion of the sign(s) shall be limited to no more than one per storefront. For corner properties, the text portion of the sign(s) shall be limited to no more than one per street front. For corner properties where historic evidence exists of more than two signs at the ground floor, including a corner sign, at the discretion of the historic preservation board, an additional sign at the ground floor may be permitted at the corner in a manner consistent with such historic evidence. In no instance shall the total square footage of signs permitted under this subsection exceed the limitations set forth in subsection (b) above.
 - e. For those facades facing a residential or hotel use, only back-lit signage shall be permitted.
 - f. For properties with frontage on both Lincoln Road and Collins Avenue, the only signage permitted on Collins Avenue shall fall within the confines of the corner radius, with a maximum lineal frontage of 20 feet on Collins Avenue.
- (2) In evaluating signage applications for a certificate of appropriateness, the historic preservation board shall consider the following:

- a. The quality of materials utilized for the sign and their appropriateness to the architecture as well as the historic and design integrity of the structure.
 - b. The overall design, graphics and artistry associated with a proposed sign and its relationship to the historic and design integrity of the structure.
 - c. The design detail, animation and non-text graphics proposed for the proposed sign(s).
 - d. The illumination, surface colors and finishes, width, depth, and overall dimensions of the proposed sign(s).
 - e. Original, historic signage associated with the building and/or property.
- (3) The historic preservation board may, at its discretion, place restrictions on the hours of operation for any sign approved under this subsection.
 - (4) Signage must relate to the specific occupant(s) of the property.
 - (5) Prior to the issuance of a building permit for any signage approved under this section, the planning director, or designee, or, if required the historic preservation board, shall review and approve the substantial rehabilitation or restoration of a facade, business location or storefront where new signage under this section is proposed. Such rehabilitation or restoration shall be substantially completed, prior to the actual installation of any signage approved under this section.

Sec. 138-43. - North Beach Town Center signage.

For those properties located in the North Beach Town Center TC zoning districts, the following shall apply:

- (1) Window signs in the TC-1 and TC-2 districts. When there are no other flat wall signs associated with the use, the main permitted sign or signs may be located on the ground floor window with a total aggregate size of 20 square feet for the first 25 feet of linear frontage, plus one square foot for every three feet of linear frontage up to a maximum of 30 square feet.
- (2) In addition to other permitted signs, projecting signs oriented to pedestrian view shall be permitted to be located perpendicular to the sidewalk, limited to one sign per business establishment for each side facing a street or alley. Such signs shall not exceed three square feet in area. Generally, letters shall not exceed six inches in height unless integrated into a creative graphic design approved by design review. Such signs may be illuminated by an external lighting source if the lighting source is approved by design review.

Sec. 138-43—138-50. - Reserved-

Division 2 - Specific Setting Sign Regulations

Sec. 138-51 – Signs for schools and religious institutions

- (a) Religious institutions and schools shall be permitted 30 square feet of aggregate signage area, regardless of district regulations. For religious institutions and schools on properties with a lot size greater than 5,000 square feet, the following shall apply:
 - (1) Wall signs shall permitted to exceed the maximum number of signs and maximum sign area under the design review or certificate of appropriateness process, as applicable, up to an aggregate maximum size of 100 square feet per street front.
 - (2) Monument signs shall be limited to one per street front, with each sign not to exceed 15 square feet in sign area. The overall height of the sign, including the base (monument) shall not exceed six feet as measured from grade.
- (b) A temporary sign identifying a religious event or holiday may be permitted under the following criteria:
 - (1) A maximum of one temporary sign per street front, no larger than 30 sq. ft. each.

- (2) Temporary signs may be installed up to 30 days prior to the religious event or holiday and shall be removed at the end of the religious event or holiday.
- (3) Temporary signs may include projected images of the religious event or holiday.
- (4) The design, projection, materials, location and installation method of temporary signs shall be subject to the design review or certificate of appropriateness process, as applicable.

Sec. 138-52 – Signs for oceanfront & bayfront buildings.

Signs located between the erosion control line (ECL) and the main structure shall be limited to the following:

- (a) One sign identifying the main structure, sign area not to exceed one percent of the wall area facing the ECL with a maximum size of 75 square feet
- (b) One sign per accessory use, sign area not to exceed 20 square feet.
- (c) A flat sign located on a wall facing an extension of a dead-end street, municipal parking lot or park, and within the area designated as the dune district or the required 50-foot rear yard setback at the ground level, may be permitted with a maximum size of ten square feet of sign for only one accessory use.
- (d) Illuminated signs shall only consist of flush-mounted, back-lit letters. This does not apply to the MXE district.

Signs located of building fronting the bay shall be limited to the following:

- (a) No more than one sign facing the bay, limited to the main permitted use.
- (b) Such sign shall only consist of flush-mounted, back-lit letters.
- (c) The area of such sign shall not exceed one percent of the wall area facing the bay with a maximum size of 50 square feet. The design and location of the sign shall be approved by the design review process or certificate of appropriateness process as applicable.

Sec. 138-53 – Interconnected retail

For retail storefronts that share interior connecting openings, required bathrooms or other common facilities, the following criteria shall be met before separate individual main use signs may be permitted for each:

- (a) Each of the interconnected businesses shall have a separate occupational license
- (b) Each of the interconnected businesses shall have direct access from the street with its own separate, main entrance.
- (c) Each of the interconnected businesses shall have a minimum storefront width of 20 linear feet.
- (d) The maximum width of the interconnecting opening between businesses shall not exceed 12 ft.
- (e) The individual sign for a storefront that interconnects with another business shall not exceed three-fourths of the storefront where it is located.
- (f) The aggregate sign area for the interconnected storefronts shall not exceed the maximum sign area permitted per for the combined linear frontage within Article II for CD zoning districts.

Sec. 138-54 – Legal nonconforming use signage

- (a) Signage regulations for legal nonconforming use in a residential district shall be the regulations for CD-1 zoning district.

Sec. 138-55 – Legal nonconforming signs

- (a) Except as otherwise provided herein, nonconforming signs which are damaged by any cause may be repaired if the cost of repair does not exceed 50 percent of the current replacement value of the sign. Such repairs shall be limited to routine painting, repair and

replacement of electrical components; change of copy shall not be permitted. Notwithstanding this provision, signs painted directly on the surface of a building or painted directly on a flat surface affixed to a building may only be repainted to conform to all requirements of these land development regulations.

- (b) The copy or content of nonconforming roof signs and pole signs may not be altered. Such signs shall be removed if ownership or use of the advertised building or business changes.
- (c) ~~Nonconforming roof signs and pole signs~~ signs, which were installed at the time of a building's or structure's initial construction, and which have retained their original copy and which are located on buildings or structures classified as contributing in the city's historic database or which have been designated as historic sites may be repaired or restored regardless of cost and may be retained regardless of change in ownership; however the copy shall not be changed.
- (d) Flags, pennants or banners, which were installed at the time of a building's or structure's initial construction, but were subsequently removed, and such building or structure is classified "contributing" in the city's historic properties database, may be reinstalled, subject to the certificate of appropriateness requirements in chapter 118, herein, upon the submission of substantial historical evidence.
- (e) Additionally, signs that were installed at the time of a building's or structure's initial construction, but were subsequently removed or altered, and such building or structure is classified as contributing in the city's historic database, may be restored or replicated subject to the certificate of appropriateness requirements in chapter 118, herein, and historic preservation board approval, provided substantial historical evidence of the original configuration of such sign is submitted. Such renovation or replication, inclusive of a change of copy as may be approved by the historic preservation board, shall not be required to meet existing sign regulations as long as the resulting sign replicates the original one. If the original sign copy is retained, the sign shall not be construed as additional signage, but rather the preservation of original historic elements of a building or structure.

Sec. 138-56. - Signs for filling stations

Signs for filling stations shall be permitted and subject to the following:

- (a) One wall sign per frontage with a sign area not to exceed 40 sq. ft.
- (b) One detached monument sign per site, with a maximum sign area of 20 sq. ft. In addition the price sign shall be no greater than the minimum necessary to meet state requirements.
- (c) Service bays and islands may contain identification and instructions typical of service bays, but no advertising material. Sign on service bays and islands shall not exceed 5 square feet per bay/island. In addition, the information displayed by a service bay/island identification sign shall be in compliance with state law and chapter 8A of the County Code.

Sec. 138-58 – Vertical retail center signs

A vertical retail center means a commercial building with a minimum of 150,000 gross square footage floor area, exclusive of floor area for excess parking and, including multiple commercial uses that are located above the ground floor. This definition shall not include buildings that are predominantly office or nonretail uses.

- (a) An eligible use in a vertical retail center is a use with a minimum of 12,500 square feet that is either retail, restaurant, food market or personal fitness center.
- (b) Criteria.
 - (1) The center may have signs on only two street frontages, the location and configuration of which shall be subject to design review approval. The cumulative sum of the sign areas on a facade, including corners, approved under this provision, shall be up to five

percent of the building facade on which they are located. Signs located on a building corner shall be up to five percent of the smallest adjoining building facade, subject to design review or historic preservation board approval, whichever has jurisdiction.

- (2) The center shall have no more than six business identification signs in each permitted facade or corner. Each business identification sign shall not occupy more than one percent of the wall area.
- (3) An eligible use in a vertical retail center may, subject to the limitations contained in (a) (2) above, have no more than two business identification signs on the external walls or projections of the center, exhibiting the name of the establishment and/or its brand identifying logo only. Individual capital letters shall not exceed four feet six inches in height.
- (4) A vertical retail center may have a roof-top project identification sign, not including the name of any tenant of the project, in the sole discretion of the design review and/or historic preservation boards, whichever by law has jurisdiction.
- (5) Project entrance identification signs for the center are allowed. A project entrance identification sign may be wall mounted or projecting and may be located immediately adjacent to each vehicular or pedestrian entry to the project. Such signs may be up to 30 square feet in total sign area and may not exceed ten feet in overall height, subject to design review approval.
- (6) Ground floor retail signage shall be as permitted in section 138-172, one sign per store. In addition to the above, any retail use greater than 40,000 square feet on the ground floor may have one additional wall or double-faced projecting sign, not to exceed 175 square feet, subject to design review approval.
- (7) Project directory signs for a vertical retail center may be located inside the center near each vehicular or pedestrian entrance to the project, not visible from the right-of-way. These signs may be no more than 18 square feet in signage area per sign face and wall mounted or freestanding. Such project directory signs may list all tenants on all floors within the center and have a "You are Here" type map to orientate guests and visitors.
- (8) Uses in vertical retail centers may also have business identification signs on interior walls, not visible from the right-of-way.
- (9) The design review board, or historic preservation board, whichever by law has jurisdiction, shall approve a sign master plan for the center prior to the issuance of any sign permit. The appropriate board shall have design review authority over all signs above ground level; building and planning staff may approve all signs at ground level, as well as any replacement signage for new occupants within the previously approved Sign Areas, provided the same are otherwise in compliance with the criteria set forth herein.
- (10) There shall be no variances from this section.

Sec. 138-59. - Signs for major cultural institutions.

- (c) Wall signs for major cultural institutions, as defined in section 142-1332, shall be permitted to exceed the maximum number of signs and maximum sign area under the design review process.
- (d) Monument signs for major cultural institutions will be limited on per site site, with more than 15 square feet in sign area. Height and size of monument shall be determined under the design review process.

Sec. 138-60 – Pennants, banners, streamers, flags and flagpoles.

- a) Flags and flagpoles must meet the following requirements, except during nationally recognized holidays:

1. Flagpoles shall be permanently affixed to the ground, building or other structure in a manner acceptable to the building official.
 2. Flagpoles shall not exceed 50 feet in height above grade when affixed at ground level. The height of length and height of flagpoles affixed to building shall be subject to design review, never to exceed 25 feet above the roof line.
 3. The installation of permanent flagpoles projecting over public property shall require approval from the public works department.
 4. Attached or detached flagpoles in single-family districts shall not exceed 30 feet in height, as measured from grade.
 5. The arrangement, location and number of flags and flagpoles in excess of one per property shall be determined by the design review process.
- b) Temporary flagpoles may be affixed to buildings or other structures without requiring a building permit or approval from the public works department. Temporary flagpoles shall be placed at least seven feet above ground level, and may not exceed four square feet in area.
1. No portion of a temporary flag that extends over public property shall be less than nine feet above such property, measured vertically directly beneath the flag to grade.
- c) All detached flagpoles shall abide by the setback requirement of monument signs in the CD-1 district.

Sec. 138-61. – Display of signs or advertisement on vehicles

- (a) Signs attached to or placed on a vehicle (including trailers) that is parked on public or private property shall be prohibited. This prohibition, however, does not apply in the following cases:
- (1) Identification of a firm or its principal products on a vehicle operating during the normal hours of business or parked at the owner's residence; provided, however, that no such vehicle shall be parked on public or private property with signs attached or placed on such vehicle for the purpose of advertising a business or firm or calling attention at the location of a business or firm.
 - (2) Vehicles carrying advertising signs dealing with the candidacy of individuals for elected office, or advertising propositions to be submitted and voted upon by the people. This exemption, however, shall cease seven days after the date of the election in which the person or proposition was finally voted upon.
 - (3) Vehicles which require governmental identification, markings or insignias of a local, state or federal government agency.
 - (4) Signs that are authorized under chapter 10-4(b) and 8A-276 of the Code of Miami-Dade County.
 - (5) All other signs on vehicles advertising a business or firm shall be removed or covered when the vehicle is parked on public or private property.
- (b) It shall be unlawful for any person to operate an advertising vehicle in or upon the following streets and highways under the city's jurisdiction: all of Ocean Drive, and the residential area bounded by and including 6th Street on the south, North Lincoln Lane on the north, Lenox Avenue on the west, and Drexel Avenue and Pennsylvania Avenue on the east. An advertising vehicle is any wheeled conveyance designed or used for the primary purpose of displaying advertisements. Advertising vehicles shall not include or attach any trailers or haul any other vehicle or trailer.
- This section shall not apply to:
- (1) Any vehicle which displays an advertisement or business notice of its owner, so long as such vehicle is engaged in the usual business or regular work of the owner, and not used merely, mainly, or primarily to display advertisements;

- (2) Mass transit, public transportation
- (3) Taxicabs; or
- (4) Any vehicle exempted under section 138-74(a) above.
- (c) Penalties. A violation of the provisions of subsection (a) shall be subject to the enforcement procedures and fines set forth in chapter 30, Article III of this Code. A violation of the provisions of subsection (b) shall be subject to the penalties set forth in section 1-14 of this Code.

Secs. 138-62—138-132. - Reserved.

ARTICLE IV. - TEMPORARY SIGNS

Sec. 138-131. - Generally.

- (a) Temporary signs may be erected or posted and may be maintained only as authorized by and in accordance with the provisions of this article.
- (b) Temporary signs other than those affixed directly to a window and composed of paper, cardboard, plastic film or other similar material, shall require a permit as set forth in this chapter.
- (d) For temporary signs six square feet or larger, a bond shall be posted prior to erection of the sign in an amount determined by the building official based upon the estimated cost of removal of the sign. However, no bond shall be required in excess of the amount provided in appendix A. The bond shall be refundable upon removal of the sign.
- (e) Temporary signs communicating noncommercial messages may be posted or erected in accordance with the sign area and number regulations applicable to election signs.

Sec. 138-132. - Business signs.

- (a) Business signs are signs identifying a particular activity, service, product or sale of limited duration.
- (b) There shall be a maximum of two permits for the same premises within one calendar year for signs requiring permits. Window signs as described in subsection 138-4(6) shall have no maximum number.
- (c) The sign area for window signs shall not exceed ten percent of total window area. The sign area for non-window signs for a nonconforming business in a residential district is four square feet. The sign area for non-window signs for a business in a nonresidential district is 15 square feet.
- (d) Temporary business signs may be erected and maintained for a period not to exceed 30 days, except that the city manager may approve an extension of time for the business to erect and maintain such signs beyond the 30 days, after the manager finds that such extension is necessary to mitigate the impacts of public construction on visibility of, or access to, the business. Such extension beyond 30 days shall terminate concurrent with the termination of the public construction.

Sec. 138-133. - Construction signs.

- (a) Temporary construction signs may be erected and maintained on a construction site for a period beginning with the issuance of a building permit and must be removed within three months from the date the area of new construction or substantial rehabilitation receives a temporary or final certificate of occupancy or a certificate of completion, whichever applies. However, any such signs shall be removed immediately if the building permit expires and construction has not commenced and/or if the permit is not renewed.
- (b) There shall be a maximum of one construction sign per street frontage.

- (c) Sign copy may include, but not limited to, the project name, the parties involved in the construction and financing, their phone numbers, unit prices, e-mail addresses, or web sites. Unit prices shall not exceed ten percent of the total sign area and six inches in height.
- (d) Construction signs may be flat wall signs, part of a construction fence, or rigid detached signs, affixed to posts or a construction fence. Banners are prohibited. The sign area for single-family signs is four square feet. The sign area for all other districts, shall not exceed one square foot per three linear feet of street frontage, not to exceed 75 square feet
 - 1. If part of a construction fence, the size of the sign copy shall not exceed what is permitted above; however, a rendering of the project, or artistic mural affixed directly on a construction fence shall not be computed as part of the sign area.
 - 2. Detached construction signs shall be setback ten feet from any property line. Maximum height to the top of a detached sign affixed to posts or a construction fence shall be 12 feet above grade. ~~Maximum height to the top of a flat sign affixed to a building shall not extend above the second story of such building.~~
 - 3. The sign area for window signs shall not exceed ten percent of total window area. The area contained in renderings, decorative or artistic portions of such signs shall be included in the sign area calculation, in accordance with the provisions herein.
- (e) All signs shall be reviewed under the design review process

Sec. 138-134. - Election signs.

- (a) Election signs are signs announcing political candidates seeking public office or advocating positions relating to ballot issues.
- (b) In a commercial district or industrial district the number is limited only by sign area regulations. In residential districts there shall be no more than one sign per residential building or lot.
- (c) The sign area in commercial or industrial districts for campaign headquarters shall not have a sign area limitation. Each candidate may have four campaign headquarters which shall be registered with the city clerk. Other commercial or industrial district locations shall have the same requirements as for construction signs or real estate signs, whichever is larger. The sign area in residential districts shall be the same as for construction signs.
- (d) Election signs shall be removed seven days following the election to which they are applicable.
- (e) It shall be unlawful for any person to paste, glue, print, paint or to affix or attach by any means whatsoever to the surface of any public street, sidewalk, way or curb or to any property of any governmental body or public utility any political sign, poster, placard or automobile bumper strip designed or intended to advocate or oppose the nomination or election of any candidate or the adoption or rejection of any political measure.

Sec. 138-135. - Real estate signs.

Real Estate signs are signs advertising the sale, lease or rent of the premises upon which such sign is located.

- (a) There shall be a maximum of one sign permitted per street frontage. Waterfront properties will be permitted a sign facing the water. No signs are permitted on public property.
- (b) Signs may be double faced provided all information is identical. Copy shall not indicate prices. Iridescent and illuminated signs are prohibited.
- (c) The sign area for the primary sign:
 - 1. In Single Family districts allowed to be a maximum of 14 inches by 18 inches. An attached strip sign shall be permitted two inches by 18 inches. "Open House" type signs shall be 22 inches by 16 inches, and only red & white or black & white. No other signs will be permitted.
 - 2. In multifamily districts, sign shall not exceed four feet by four feet.

3. The sign area for a commercial/industrial sign shall not exceed four feet by six feet.
- (d) Detached signs shall have a setback of ten feet if lot is vacant, three feet if lot has improvements. Sign may be placed on structure or wall if structure or wall is less than three feet from property line. Height shall not exceed five feet.
 - (e) Real estate signs are not permitted on windows of apartment, multifamily buildings or individual offices.
 - (f) Real estate signs shall be removed within seven days of the sale or lease of the premises upon which the sign is located.
 - (g) Only the following information and no other information may appear on the sign:
 - 1. For all districts:
 - i. "For Sale," "For Lease," or "For Rent," or combination thereof
 - ii. The name and logo of the real estate broker or realtor
 - iii. Name of the owner or the words "By Owner" in lettering not to exceed one inch in height.
 - iv. A designation following such name as being either a "Realtor," "Broker" or "Owner" in lettering not to exceed one inch in height.
 - v. The telephone number of such realtor, broker or owner
 - vi. The words "By Appointment Only"; "Waterfront"; "Pool."
 - 2. Additionally, for commercial, industrial, and multifamily buildings:
 - i. Zoning information
 - ii. Size of property and/or building
 - iii. Permitted use of property
 - (h) Each primary sign shall receive a permit from the license department, which shall charge a fee as set forth in appendix A per primary sign. There shall be no additional charge for strip or "open house" type signs.

Sec. 138-137. - Banners signs.

- (a) One temporary banner per calendar year, per property, may be erected and maintained for a period not to exceed 14 days.
 - 1. Area shall not exceed 30 sq. ft.
 - 2. Design will be subject to administrative design review.
- (b) A building permit is required. The building official shall require a performance bond in an amount determined necessary in order to insure its removal, but not less than the amount provided in appendix A. Temporary banners shall not be used for construction signs.

Sec. 138-138. - Garage sale signs.

A garage sale sign may only be posted during the effective time of a valid garage sale permit issued by the city. One 12 by 18 inch garage sale sign shall be permitted for a maximum period of two days.

Cross reference— Garage sales generally, § 86-31 et seq.

Sec. 138-139. - Cultural institutions temporary banner.

A cultural institution shall be defined as one that engages in the performing or visual arts or engages in cultural activities, serves the general public and has a permanent presence in the city.

- (a) The institution shall be designated by the Internal Revenue Service as tax exempt pursuant to section 501(c)(3) or (4) of the Internal Revenue Code.
- (b) The institution shall have an established state corporate charter for at least one year prior to the application for approval and be maintained for duration of the approval.

A cultural institution may have a temporary banner identifying a special event under the following criteria:

- (a) There shall be a maximum of two banners per structure, no larger than 30 sq. ft. each.
- (b) Banners may be installed up to 30 days prior to the special cultural event, exhibit or performance and shall be removed at the end of the special event, exhibit or performance.
- (c) Cultural institutions may use projected images of the special event, exhibit or performance up to a maximum of 30 days prior to the special event, exhibit or performance.
- (d) Design, projection, and installation method shall be subject to design review

Sec. 138-140. - Vacant storefront covers.

- (a) *Purpose.* Vacant storefronts create blighted economic and social conditions contrary to the viable and healthy economic, aesthetic and social fabric that the city has cultivated and encouraged in its commercial zoning districts. The purpose of this section is to encourage and regulate the screening of the interior of vacant storefronts with aesthetically compatible and attractive material, to obscure the deteriorated or deconstructed conditions of vacant storefronts, and to allow temporary signs to be included on this material.
- (b) *Definition.* For purposes of this section, a vacant storefront is any ground floor business establishment that is unoccupied.
- (c) *Applicability.* The requirements of this section apply only to the ground floor windows and doors of vacant storefronts that face a public right-of-way. If a commercial property is vacant for more than 15 days, all glass surfaces visible to the public shall be kept clean, and the interior of such vacant store shall be screened from public view in one of the following ways, until the property is occupied:
 - (1) All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (e); or
 - (2) All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (f).
- (d) *Storefront window cover required for vacant storefronts.* Exterior windows and doors on vacant commercial property shall be substantially screened with an opaque material obscuring the interior. The materials used to satisfy this requirement shall be subject to review and approval by the planning department design review staff, in accordance with applicable design review and historic preservation criteria, and shall consist of 60-pound weight paper, or similar opaque material. Windows covered in accordance with this section shall may remain covered until issuance of a certificate of use or occupancy for the new occupant, whichever occurs first. If the owner of vacant commercial property elects not to utilize one of the signs identified in subsection (e), the owner shall utilize the window covers identified in subsection (f).
- (e) *Temporary signs permitted.* Material applied to windows in conformity with this section shall not contain general advertising signs or other prohibited sign types. Such material may contain applicable property access limitations, including no trespass provisions, as well as signs that comply with the regulations of this chapter, as follows:

- (1) Artistic or super graphics in accordance with section 138-204, which may cover 100 percent of the window; and
 - (2) Other types of signage allowed by this chapter, including real estate signs in accordance with section 138-136, and construction signs in accordance with section 138-133; signage under this provision may be incorporated into artistic or super graphics as referenced in (1) above, however, the text of such signage shall be limited to no more than 25 percent of the total window area of the vacant storefront.
 - (3) The design and material of all proposed signs under this subsection (e) shall require review by the planning department design review staff, in accordance with applicable design review and historic preservation criteria.
- (f) *City-provided storefront cover.* The city shall produce and provide preapproved storefront covers, for a charge, to cover vacant storefronts not complying with subsection (d) above. Such covers may contain applicable property access limitations, including no trespass provisions.
 - (g) *Penalties and enforcement.* Each day of noncompliance shall constitute a separate offense. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.
 - (1) The following civil fines shall be imposed for a violation of this section:
 - a. First violation within a 12-month period: Warning;
 - b. Second violation within a 12-month period: \$250.00;
 - c. Third violation within a 12-month period: \$500.00;
 - d. Fourth or subsequent violation within a 12-month period: \$1,000.00.
 - (2) *Enforcement.* The code compliance department shall enforce this section. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.
 - (3) *Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.*
 - a. A violator who has been served with a notice of violation must elect to either
 - i. pay the civil fine in the manner indicated on the notice of violation; or
 - ii. request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.
 - b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

- c. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.
- d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three (3) months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.
- e. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.
- f. The special master shall not have discretion to alter the penalties prescribed in this section.
- g. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

SECTION 2. APPLICABILITY

The regulations and requirements held here within shall not apply to projects that have a valid Land Use Board Approval or have been issued a building permit process number.

SECTION 3. REPEALER.

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

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or reentered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

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

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and ADOPTED this _____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

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

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

Underscore denotes new language
~~Strikethrough~~ denotes ~~deleted~~ language

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Off-Street Parking Regulations

ORDINANCE NO. _____

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

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

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

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

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

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

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

Chapter 130 - OFF-STREET PARKING

ARTICLE I. - IN GENERAL

Secs. 130-1—130-29. – Reserved.

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

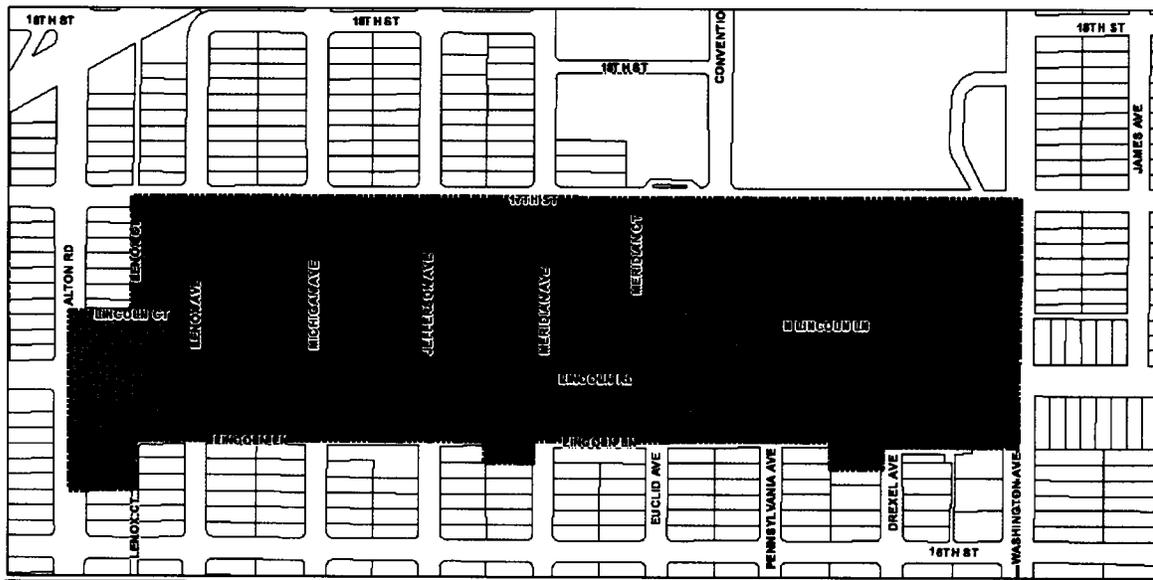
Variances for off-street parking requirements shall be prohibited unless explicitly authorized in this chapter.

ARTICLE II. - DISTRICTS; REQUIREMENTS

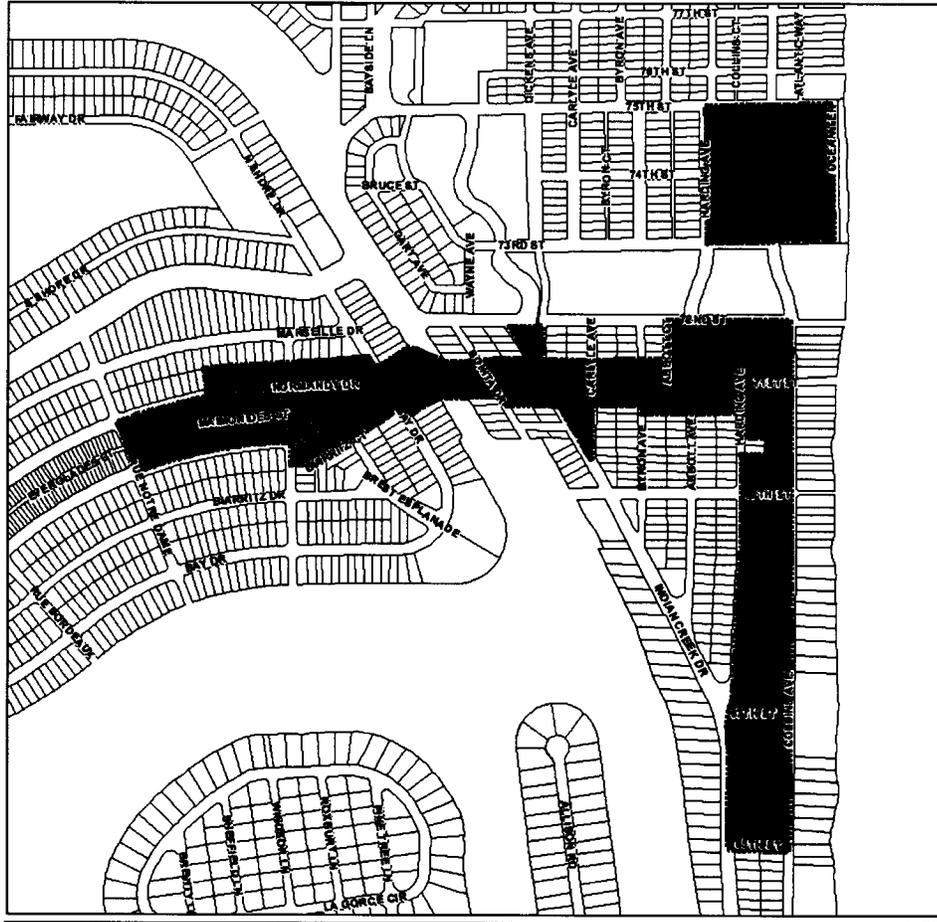
Sec. 130-31. - Parking districts established.

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

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



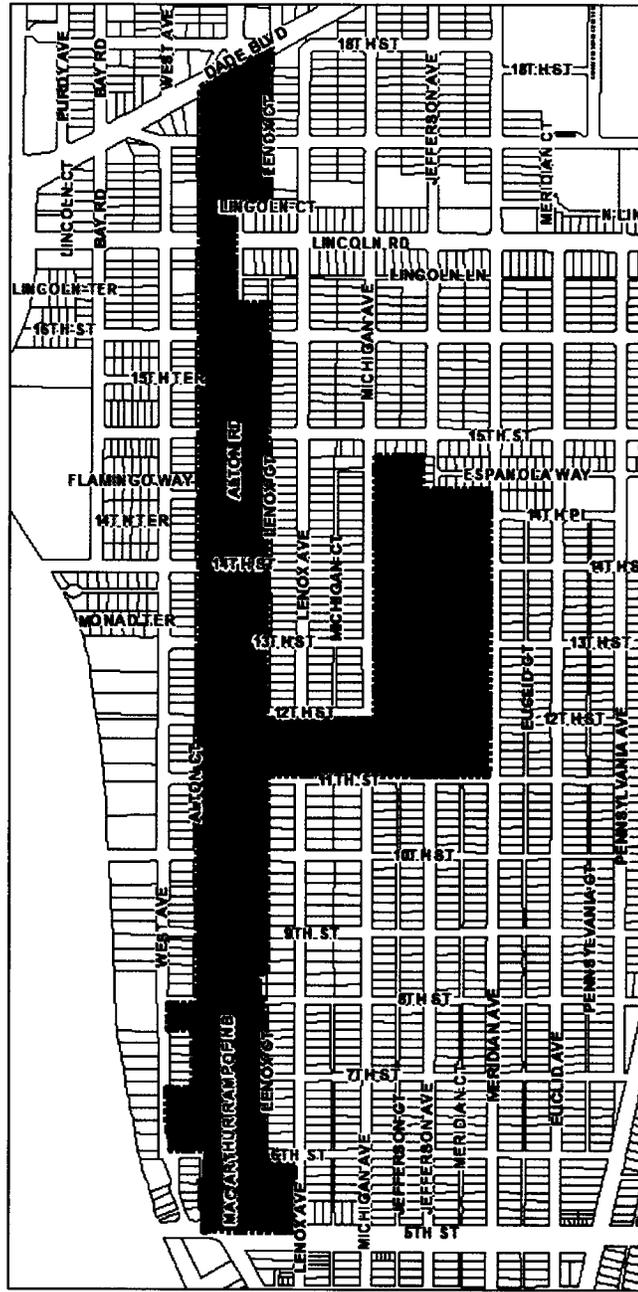
- (3) *Parking district no. 3.* Parking district no. 3 includes those properties in the CD-3 commercial high density zoning district within one block north or south of Arthur Godfrey Road from the east side of Alton Road to west side of Indian Creek Waterway, as depicted in the map below:-



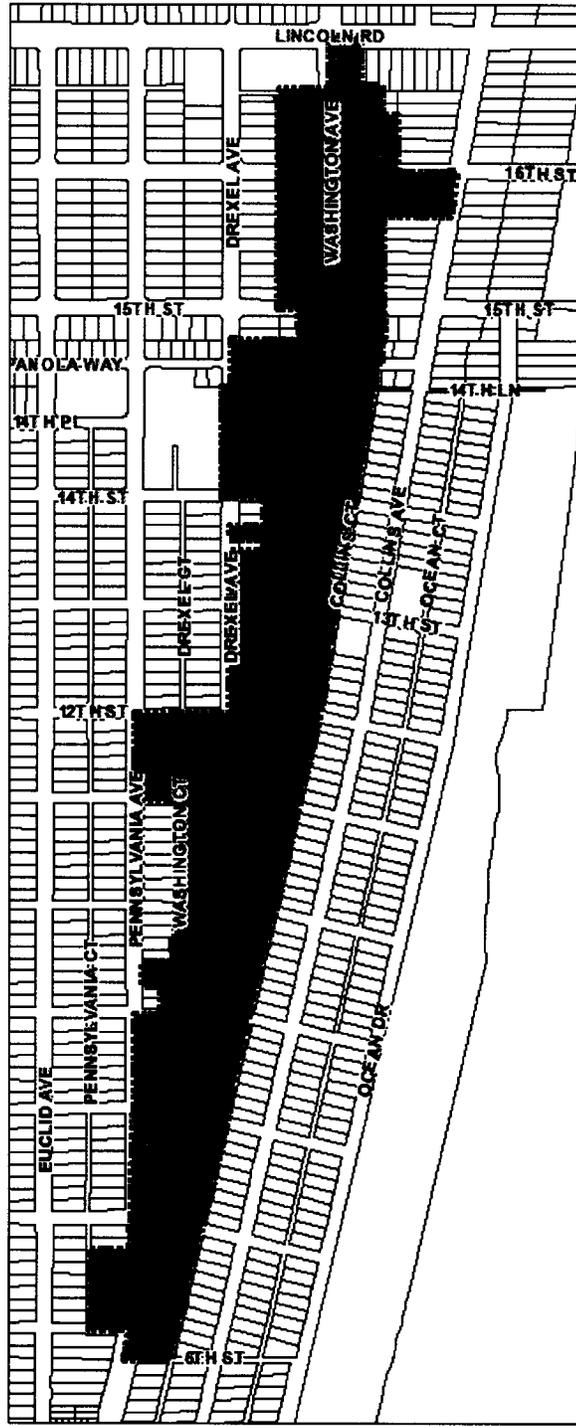
- (5) *Parking district no. 5 - Sunset Harbour Neighborhood.* Parking district no. 5 includes those properties generally bounded by Purdy Avenue on the west, 20th Street on the north, Alton Road on the east and Dade Boulevard on the south, as depicted in the map below:-



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



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



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

* * *

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

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

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

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

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

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

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

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

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

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

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

* * *

ARTICLE III. - DESIGN STANDARDS

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

With the exception of parking spaces that are permitted in sections 130-101, 130-251, and 130-281, a standard off-street parking space shall be an all-weather surfaced area, not in a street or alley according to the following standards; ~~and having a width of not less than eight and one-half feet and a length of not less than 18 feet, or when located outdoors, 16 feet with two feet of pervious area overhang, in place of wheel stops and defined by continuous concrete curb, for a total length of 18 feet. The provision of having a two-foot pervious area overhang in standard parking spaces may be waived at the discretion of the planning and zoning director in those instances where said overhang is not practical. In no instance, however, shall the length of any standard off-street parking space be less than 18 feet, unless indicated in sections 130-401, 130-251, and 130-281 herein. A standard parallel parking space shall be an all-weather~~

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

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

Sec. 130-67. - Screening and landscaping.

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

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

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

* * *

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

* * *

- b. In addition, the following shall apply:

* * *

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

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

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

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

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

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

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

- (1) Temporary commercial or noncommercial parking lots may be operated in the MR marine district, GU government use district, MXE mixed use entertainment district, I-1 urban light industrial district or in any commercial district. These lots may be operated independent of a primary use. Temporary, noncommercial lots may be located in the R-PS1—4 and in any multifamily residential district or within the architectural district as defined in section 114-1. One sign per street frontage is permitted. The maximum size of each sign shall be five square feet per 50 feet of street frontage. This sign shall also include copy that indicates the name of the operator, the phone number of operator to

report complaints, and who can use the parking facility; i.e., whether it is open to the general public, private, valet or self-parking.

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

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

~~An applicant may request from the planning board a further extension of time for a period not to exceed two years for approved temporary parking lots that have held a temporary parking lot license (n/k/a business tax receipt), if they have availed themselves of all applicable extensions of time, and are expiring no later than July 31,~~

~~2011, inclusive of parking lots in the MXE (east side of Collins Avenue) district. When requesting the additional two-year extension of time from the planning board, the applicant shall comply with the setback requirements for parking lots in the underlying zoning district, as determined by the planning director, and satisfy the landscaping requirements for permanent parking lots. After this two-year extension, no more than three one-year extensions may be requested from the planning director.~~

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

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

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

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

- ~~a. At a minimum, the plan shall indicate a five-foot wide, landscaped area bordering the surface area along a property line, street, alley or sidewalk. The areas fronting a street or alley shall be landscaped with a grouping of three palms every 15 linear feet of frontage or one canopy tree every 20 feet of frontage. All landscaped areas shall utilize St. Augustine grass or planted material acceptable to the planning department.~~
- ~~b. A hedge that is at least 36 inches in height at the time of planting shall be installed on the entire perimeter of the lot; hedges on street or alley frontages shall not exceed 42 inches in height at maturity. The hedge material planted on any side of the lot that abuts the lot line of another property shall be at least 48 inches (four feet) in height at time of planting and shall not exceed 60 inches (five feet) at maturity.~~
- ~~c. For temporary parking lots seeking an extension of time from the planning board, the interior landscaping of lots exceeding 55 feet in width, shall be a minimum of five percent of net interior area. One shade tree or grouping of three palms with a clear trunk of at least six feet shall be provided for each 100 square feet or fraction thereof of required landscaped area. Such landscaped areas shall be located and designed in such a manner as to divide and break up the expanse of paving. Parking lots that are 55 feet wide or less shall not be required to provide interior landscaping.~~
- ~~d. Landscaped areas shall require protection from vehicular encroachment. Car stops shall be placed at least 2½ feet from the edge of the paved area.~~

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

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

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

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

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

shall be provided. Vehicles shall not back out onto any street. The size of the parking spaces, back-out areas and exit/interior drives shall not have dimensions less than those required in sections 130-61 through 130-64. Lots operated on a valet basis shall have wheel stops at the edge of the parking surface. All wheel stops required in this subsection shall be placed no less than four feet away from each other.

- (9) Prior to the issuance of a building permit, the planning department shall approve the site and landscaping plans. Prior to the issuance of an occupational license, the division shall approve the placement of landscaping.
- (10) The applicant for a provisional parking lot must provide a written statement from the property owner as part of the required submission for the lot, acknowledging that the owner is fully and solely responsible for eliminating any contamination resulting from lack of a drainage system on the unpaved lot and indemnifying and holding the city harmless from loss or damage arising from any contamination on the lot, in a form approved by the city attorney's office.
- (11) No variances shall be granted from the requirements of this section.
- (12) At the time the provisional parking lot ceases to exist, all crushed rock material shall be removed within 30 days and replaced with sod and/or landscaping as determined acceptable by the planning, design and historic preservation division. This provision shall not apply to existing lots where crushed rock was legally in place at the time of the passage of these land development regulations.

ARTICLE V. - FEE IN LIEU OF PARKING PROGRAM

Sec. 130-132. - Fee calculation.

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

redemption payment rather than upon the amount which would have been due if the fee had been paid at the time of issuance of the building permit. However, when new floor area is added to the existing building, the impact-fee in lieu shall be as set forth in subsection (a) of this section.

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

Sec. 130-133. - Fee collection.

(a) *New construction.*

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

~~shall be prorated.~~ Subsequent annual payments shall be paid in full by June 1 as long as the use exists. ~~‡~~The amount of the payment is set forth in subsection 130-132(b)(2).

- (b) *Existing structures.* For existing structures and those which elect a yearly payment plan, the first fee-in-lieu payment shall be ~~paid prior to the issuance of a building permit and shall be applied at the time the certificate of use is issued. If no building permit is needed, the first payment shall be due at the time the occupational license or certificate of use, whichever is earlier, is issued. The second payment shall be due June 1 following the issuance of the occupational license or certificate of use, whichever is earlier, and ‡~~The amount due shall be prorated from September 30. Subsequent annual payments shall be paid in full by June 1 as long as the use exists. ~~‡~~The amount of the payment is set forth in subsection 130-132(b)(2).
- (c) *Existing structures; one time redemption payment.* For existing structures, a one time redemption payment may be made at any time and shall be in the amount determined by application of the formula for a one time payment as set forth in subsection 130-132(b)(2).
- (d) *Late payments.* For late payments, monthly interest shall accrue on unpaid funds due to the city under the fee-in-lieu program at the maximum rate permitted by law. Additionally, a fee in the amount of two percent of the total due shall be imposed monthly to cover the city's costs in administering collection procedures.
- (e) *Failure to pay.* Any participant in the fee-in-lieu program who has failed to pay the required fee within three months of the date on which it is due shall be regarded as having withdrawn from the program and shall be required to provide all parking spaces required by these land development regulations or cease the use for which such spaces were required. Failure to comply shall subject such participant to enforcement procedures by the city and may result in fines of up to ~~\$250.00 per day~~ and liens as provided by law.

ARTICLE VI. - PARKING CREDIT SYSTEM

Sec. 130-161. - Regulations.

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

- (1) The parking credit shall only be applied to the area within the existing shell of the building, unless otherwise specifically provided in Chapter 118, Article IX, of these land development regulations.

- (2) Parking credits shall not be applicable to buildings or portions of a building that have been demolished, unless otherwise specifically exempted in Chapter 118, Article IX, of these land development regulations.
- (3) ~~Parking credits in the MXE mixed use entertainment district shall only be applied as of November 5, 1990. Parking credits in the redevelopment area shall only be applied as of the effective date of these land development regulations. Any existing use in the MXE mixed use entertainment district or redevelopment area which has satisfied the parking requirement through participation in the parking impact fee program may have its parking impact fee adjusted for parking credits at the next due date for payment. No reimbursement or prorating shall be allowed. In order to calculate the parking requirement of a proposed use, the parking credit shall be subtracted from the total parking requirement of the proposed use. The additional required parking shall be provided pursuant to the requirements of section 130-36 or if eligible, the fee in lieu of parking program described in Article V of this chapter.~~
- (4) Existing required parking spaces, inclusive of spaces for which a complete fee in lieu of required parking was made, for a building or use shall not count towards meeting additional required parking for a proposed use, unless the total number of existing required parking spaces exceeds the total number of required parking spaces of the proposed use.

ARTICLE VII. - SURPLUS AND UNDER-UTILIZED PARKING SPACES

Sec. 130-191. - Surplus parking spaces.

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

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

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

~~plus a fee per space as provided in appendix A shall be paid for purposes of offsetting the cost of administrating this article.~~

ARTICLE IX. - VALET AND TANDEM PARKING

Sec. 130-251. - Requirements.

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

SECTION 4. CODIFICATION.

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

SECTION 5. REPEALER.

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

SECTION 6. SEVERABILITY.

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

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2016.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney _____
Date

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

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

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

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jimmy Morales, City Manager

FROM: Philip Levine, Mayor

DATE: May 11, 2016

SUBJECT: Referral To The Finance And Citywide Projects Committee Meeting Of May 20, 2016 – A Discussion Relating To City Clerk Rafael E. Granado's Annual Performance Evaluation.



Please place on the May 11, 2016 City Commission agenda, a referral to the Finance and Citywide Projects Committee meeting of May 20, 2016, to discuss City Clerk Rafael E. Granado's annual performance evaluation.

As in the past, it has been customary for the Chairperson of the Finance and Citywide Projects Committee to be designated as the person who negotiates, on behalf of the City Commission, the employment contracts for the City's three Constitutional officers (i.e. the City Manager, City Clerk and City Attorney).

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MIAMIBEACH

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

COMMITTEE MEMORANDUM

TO: Members of the Finance and Citywide Projects Committee

FROM: Jimmy L. Morales, City Manager

DATE: May 11, 2016

SUBJECT: REPORT OF THE FINANCE AND CITYWIDE
PROJECTS COMMITTEE (FINANCE) MEETING ON
APRIL 22, 2016

The agenda is as follows:

NEW BUSINESS

1. Discussion Regarding Referral To The Neighborhood/Community Affairs Committee To Discuss Proposed Site Options For New Fire Station No. 1

ACTION

The Committee recommended staff bring this item back to Finance with a more detailed concept plan to include:

- Appraisal for the fair market value of the site;
- Consideration of the sea level when establishing the finished floor elevation of the facility;
- Plan for maintaining the Parks and Recreation Department and/or Police Athletic League operational during construction;
- Plan addressing temporary parking initiatives during construction; and
- More information on the aesthetics of Flamingo Park.

2. Discussion Regarding The Creation Of The Ocean Court Green Alley Española Way (East) Green Alley

ACTION

The Committee recommended staff continue negotiations and bring this item back to Finance unless a deal can be made and the item can go to the City Commission. Finance Committee Chairman Arriola offered to sit in on the negotiations.

3. Discussion to Consider And Explore The Impact Of A Car Sharing Pilot Program

ACTION

The Committee recommended going to the City Commission for approval of a bid waiver in order to negotiate with Zip Car and a plan to include marketing the cars in visible locations.

4. Discussion Regarding A Review Of The Fine Schedule For Littering On The Beach

ACTION

The Committee recommended staff re-evaluate the fine schedule for littering on the beach to include the following:

- a. First Offense: Warning
- b. Second Offense: \$100 Fine
- c. Third Offense: Progressively Worse

The Committee also recommended representatives are present from the Police Department and Code Compliance in bringing this item before the City Commission.

5. Discussion Regarding Miami New Drama Becoming The Resident Theater And Venue Manager For The Colony Theater As A Pilot Program

ACTION

Item deferred.

6. Discussion Regarding The Creation Of The City Of Miami Beach Transportation Fund

ACTION

The Committee moved to create a City of Miami Beach Transportation Fund specifically for the improved public transportation system. This item will be presented at the next Finance meeting as additional research is needed for a fund.

7. Discussion To Consider Adopting The Disability Access Committee's Request For The City To Support Power Access Inc. For Disability Awareness Events

ACTION

The Committee recommended a one-time waiver of fees for use of the Colony

Theater for the non-profit entity, Power Access Inc., for their upcoming Disability Awareness Events.

8. Discussion To Consider The Closed Captioning For The Hearing Impaired Of The City's Video-Recorded Meetings And Events

ACTION

The Committee recommended staff bring this item back to Finance after meeting with the Disability Access Committee to evaluate if this would be the best use of limited City funds for the hearing impaired.

9. Discussion Regarding The Vacation Of A Portion Of The Alley Between Alton Road And West Avenue, Just South Of 17th Street – As Part Of A Proposed Mixed Use Project That Will Include Residential, Retail And Structured Parking, Including Public Parking

ACTION

The Committee recommended staff and the Public Works Director meet with the applicant to close the gap between the two parties' discrepancies in their respective appraisals and negotiate the price so that this item can be placed on the May 11th City Commission agenda.

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Exhibit A



Consolidated Second Amended and Restated RULES AND REGULATIONS FOR BEACHFRONT CONCESSION OPERATIONS (as amended on January 30, 2002 and March 17, 2003)

The City of Miami Beach has established policies and procedures concerning the management and operation of beachfront concessions. The following rules and regulations shall apply to all beachfront concession operators.

1. If the concession includes food and beverage service, then at least one supervisory employee must possess a Food Service Management Certification issued by a County Public Health Department in Florida. In addition, each food service unit, cart or facility must be licensed by the Florida Department of Business & Professional Regulation - Division of Hotels and Restaurants (8240 NW 52nd Terrace, Suite 101, Doral, Florida, 33166; telephone: 850-487-1395).

2. Cooking and heating will only be permitted at those facilities/locations where cooking and heating activities were being conducted and possessed a valid/current business tax receipt from the City as of September 5, 2001.

Cooking and /or heating facilities will only be permitted on the beachfront in accordance with applicable City, County, State, and Federal laws.

Cooking and/or heating shall only be permitted by means of battery powered or propane gas system, properly approved, permitted and installed in accordance applicable municipal, county, state, and federal laws. The use of electricity producing generating devices (generators) is prohibited.

Notwithstanding any other provisions contained herein, all cooking and/or heating facilities must be removed from the beachfront at the end of each day (prior to sundown) and shall not be permitted to remain on the beach overnight.

3. The Upland Owner Concessionaire shall provide, at its sole expense, at least two (2) trash receptacles within the confines of the area approved for its use and for the use of the public. Disposal of the contents of said receptacles and removal of any trash or debris within the approved area, shall be done on a daily basis, and shall be the sole responsibility of the Upland Owner Concessionaire.
4. An Upland Owner Concessionaire must provide the City written acknowledgment (see *Beachfront Concession Application Page 3 of 7*), of its understanding of, and agreement to abide by, these Rules and Regulations prior to receiving permission to operate behind the respective upland property. Said acknowledgment must contain **the name, title, and signature** of an authorized representative of the Upland Owner, and **must be notarized**. The Upland Owner Concessionaire's application will not be considered until said acknowledgment is presented to the City. Applications will not be considered to be complete if this, or any other information which is required as part of this application, is not properly

submitted or is incomplete. The City reserves the right to request that any required documentation or information be updated and resubmitted if it is deemed necessary by the City in order to clarify and/or confirm the current status of said Upland Owner acknowledgment.

Any Concession Permit granted pursuant to these Rules and Regulations shall not be construed to vest any additional rights upon the Upland Owner Concessionaire that do not otherwise exist, except for the privilege of temporary use of the beachfront in accordance with the conditions set forth herein and all other applicable Municipal, State, County and Federal law. Upland Owner Concessionaires are hereby notified that all of the beaches are public and as such concession operations must not restrict, or appear to restrict access, or in any way limit the public nature or ambiance of the beachfront.

Beach chairs shall be deployed in a manner and number that will assure public access and will encourage public use of the beach, taking into consideration the characteristics of the individual property involved.

5. The Upland Owner Concessionaire agrees to abide by all City, County, and State laws with regards to the use of the beachfront areas, as amended, or adopted hereafter. The authorization to operate a beachfront concession may be suspended at any time by written notice from the City Manager. The concession authorization may be revoked upon ten (10) days written notice from the City Manager. Such suspension may be subject to an administrative hearing/review.
6. There is no responsibility on behalf of the City of Miami Beach for any lost, stolen or damaged property belonging to the Upland Owner Concessionaire.
7. The Upland Owner Concessionaire must prepare a written evacuation plan for the prompt removal of all facilities and equipment used in the concession operations from the beachfront within one (1) hour of notification by appropriate City authorities and/or within eight (8) hours of the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management. This plan must be submitted to the City for approval (*see Beachfront Concession Application Page 6 of 7*). An operation plan must also be submitted (*see Beachfront Concession Application Page 4 of 7*).
8. There shall be no overnight storage of any kind east of the dune line on the beach, except for the following:
 - A. Beach chairs will be permitted to remain on the sand overnight, as long as they are in good condition, neatly stacked (a maximum of 10 chairs per stack or plastic, and 4 chairs per stack for wood), and arranged side by side adjacent to the concession stand.
 - B. Concession facilities used for dispensing services and/or storage will be allowed to remain on the beach, as long as they are well maintained and kept west of the lifeguard stands.

Violators will have their concessions closed and the City shall have the right to confiscate any and all facilities and equipment left on the beach overnight.

9. The City of Miami Beach retains the authority to determine the number of employees required for each concession.
10. Upland Owner Concessionaire will conduct its operations so as to maintain reasonable quiet and make no public disturbances. Hawking to attract attention, and/or summoning or

accosting any person is prohibited. The playing of any music or allowing any other activity that disturbs the public is prohibited.

11. ~~Vehicles are only allowed in areas where roadways are provided, and may only park only in areas designated for vehicle parking. Upland Owner Concessionaire's vehicles shall only be allowed on the beachfront for purposes of supplying the concession's operations, and to remove equipment at the close of operations each day, and must be removed from the beachfront immediately thereafter. (amended March 17, 2003; see rule 25)~~
12. Upland Owner Concessionaire will be responsible for any damage caused to any City-owned property and/or the beachfront during the time of its usage of said area.
13. For any use or operation other than that specifically authorized in accordance with the specific Beachfront Concession Application submitted by the Upland Owner Concessionaire and the respective Concession Agreement associated therewith, the Upland Owner Concessionaire must comply with any requirements imposed pursuant to the City's Special Events Permit Requirements and Guidelines (*Ordinance No. 2001-3302*) and any other applicable City, County, State, and Federal requirements.
14. All Upland Owner Concessionaires and their employees shall wear City of Miami Beach or City approved identification badges, and must comport themselves in a professional and courteous manner, at all times during hours of operation.
15. The sale of beverages from cans, bottles, or plastic containers are not permitted. Beverages must only be dispensed in paper cups or other biodegradable containers, in accordance with applicable State and County requirements. The use of plastic straws is also prohibited.
16. Only City approved concession facilities will be permitted. Any and all concession facilities must receive prior approval by the City, in accordance with City Planning Department's Current Staff Design Guidelines (*see attached Exhibit 1*).

Any cooking and heating facilities which were authorized and licensed as of September 5, 2001, shall be permitted to remain for a period not to exceed the normal life expectancy (from manufacture date) of a facility located daily on an oceanfront beach, as determined by the manufacturer, following the City Commission's approval of future design standards for all beachfront concession facilities. The design standards approved by the City Commission shall be incorporated by adoption into these Rules and Regulations. Thereafter, all Upland Owner Concessionaires shall be required to comply with the design standards, as adopted by the City Commission and incorporated herein.

Concession facilities, furnishings and equipment shall be neat, clean, and well maintained at all times. The concession operation must be aesthetically pleasing and non-detrimental to the surrounding environment.

17. The following regulations specifically apply to Upland Owner Concessionaires offering Watersport concessions:
 - A. All propeller craft must have propeller guards.
 - B. All operations that involve the use of watercraft must have a "chase boat" available readily available. The "chase boat" is subject to the prior approval of the City.
 - C. The operation of all watersport activities shall be conducted outside the 300 foot swimming area ("guarded area") and no closer than 400 feet of any lifeguard stand. The location of the watersport concession shall be subject to the approval of

appropriate City Departments. The Upland Owner Concessionaire must instruct all users as to all safety precautions, including avoidance of swimmers and bathers.

- D. All concession activities, including the placement and/or use of umbrellas, canopies, etc., shall not obstruct the view of a lifeguard. Any request from a lifeguard to relocate any item that obstructs his/her view shall be treated as an emergency and be relocated immediately.
 - E. Upland Owner Concessionaires are responsible for instructing clients on safe operation of equipment including advisement to stay away from all "guarded areas."
 - F. The "guarded area" extends 300 feet east of the shoreline, and 100 feet from the nearest bather or swimmer.
 - G. Upland Owner Concessionaire must identify a channel to be used as an access route through which users of watersport equipment may leave the beachfront and enter open water. Said channel shall extend 300 feet east, and perpendicular to the shore line and be marked by removable orange colored buoys which shall be a minimum of eighteen (18) inches in diameter. There shall be a minimum of four (4) buoys on each side of the channel, equally spaced.
 - H. Watercraft shall not exceed "idle speed" within the channel.
 - I. Wearing a life jacket is required for all watersport activities (i.e. "wave runners", "jet skis").
 - J. Upland Owner Concessionaire shall prohibit anyone under the age of 18, to rent, or use any powered watercraft.
 - K. Para-sailing shall be conducted only from winch boats beyond the designated swim areas.
 - L. Upland Owner Concessionaire shall supply all users of watersport equipment with life jackets in appropriate sizes.
 - M. All watercraft equipment shall meet the registration and license requirements of the State of Florida.
 - N. All motorized equipment shall be equipped with approved kill switches in working order.
 - O. Fueling is allowed on the beach under the following conditions only: signs must be posted where the gasoline is kept; cans which are spill-proof must be used; citizens, tourists, and the general public, must be kept a safe distance from where the fueling process is taking place.
 - P. Any change or addition to a watersport concession operation requires review and written authorization by the City of Miami Beach.
 - Q. All watersport concessions must be reviewed by the City's Marine Authority and approved by the City Manager or his designee.
18. ~~Any transport vehicles operated on the beachfront shall not exceed 10 m.p.h., and shall only operate in the area of the concession or to and from the nearest access ramp. After transporting equipment to the concession site, the vehicles shall be removed from the~~

~~beachfront area and parked in a legally authorized location. Driving on the beachfront area shall be kept to a minimum. (amended March 17, 2003; see rule 25)~~

19. A Food Service license issued by the Florida Department of Business Regulation - Division of Hotels and Restaurants for the food service unit must be supplied by the Applicant before a City Business Tax Receipt for a Food and Beverage Beachfront Concession may be issued.
20. A City Business Tax Receipt (valid from October 1, through September 30, of each year) is required for each activity which the Upland Owner Concessionaire operates on the beachfront (Example: an Upland Owner Concessionaire providing food and beverage, and beach equipment activities, must obtain two Business Tax Receipts).

THE ISSUANCE OF A BUSINESS TAX RECEIPT BY THE CITY IS CONDITIONED UPON AND SUBJECT TO COMPLIANCE WITH THE RULES AND REGULATIONS CONTAINED HEREIN, AS SAME MAY BE AMENDED FROM TIME TO TIME. SAID BUSINESS TAX RECEIPT(S) SHALL BE CONSIDERED NULL AND VOID IF THE CITY WITHDRAWS, DISCONTINUES, OR OTHERWISE REVOKES THE AUTHORIZATION GRANTED TO THE UPLAND OWNER CONCESSIONAIRE TO OPERATE A BEACHFRONT CONCESSION.

21. The Upland Owner Concessionaire must maintain the required insurance coverage, described on the following page, at all times.
22. The City reserves the right to issue additional and/or amend the Rules and Regulations for Beachfront Concession Operations. Said additions shall be binding on all beachfront Upland Owner Concessionaires.
23. The City reserves the right to revoke an Upland Owner Concessionaire's authorization to operate and Business Tax Receipt(s) due to non-compliance with the Rules and Regulations herein specified.
24. Anyone found operating a concession prior to meeting all of the requirements outlined in the Rules and Regulations, and/or operating without the appropriate licenses and approvals, will be removed from the beach and will not be allowed to re-apply.
25. Rules for Use of Motor Vehicles and Small Off-Road Vehicles on the Beach:
 - A. For purposes of the following rules, as herein adopted and made a part of the Rules and Regulations, the word "motor vehicle" shall mean any City approved automobile, truck, sport utility vehicle, and any other similar means of transportation that is approved and appropriately licensed by the State Department of Transportation and/or State Department of Motor Vehicles, to travel on paved roadways (and shall also be deemed to include any trailer attached thereto). The term "small off-road vehicle" shall mean golf carts and all terrain vehicles (ATV's) (and shall also be deemed to include any trailer attached thereto).
 - B. Concessionaire's motor vehicle, small off-road vehicle, and any trailer attached thereto shall only be allowed on the beachfront for purposes of supplying the concession operation(s), and to initially deploy equipment at the beginning of the day, remove equipment at the close of operations each day, and must be removed from the beachfront immediately thereafter. Anyone operating a motor vehicle or small off-road vehicle for or on behalf of Concessionaire must have a current valid Florida Driver's License. Said supplying and removal operations shall only be permitted during Concessionaire's regular hours of operation, and shall be completed safely. **No motor vehicle, or small off-road vehicle, and any trailer**

attached thereto, will be permitted on the beach after sunset or prior to sunrise. Access to the beach shall only be permitted via the predetermined and assigned beach access points/dune crossovers authorized for such use and nearest to the concession operation as reflected in the Vehicle Information Sheet.

- C. Motor vehicles or small off-road vehicles, including any trailers attached thereto, operated on the beachfront shall not exceed 5 M.P.H. and shall only operate on the "hard packed sand" area in the immediate vicinity of the concession, or to-and-from the predetermined and assigned beach access point. After transporting equipment to a Concession Area (as said area is delineated in the "Beachfront Concession Layout" diagram attached to the City's Agreement with Concessionaire authorizing the operation of a beachfront concession) the motor vehicle, or small off-road vehicle, and any trailer attached thereto, shall be removed from the beachfront area and parked in a legally authorized location of the beach. Driving on the beachfront area shall be kept to a minimum. No concession related vehicular traffic will be permitted on the beach, at any time or for any purpose, other than as stated and as approved herein. Driving from one Concession Area to another to service, supervise, or for any other reason, is prohibited. Concessionaire must exit onto the street as provided above to access other locations. All motor vehicles and small off-road vehicles, including trailers attached thereto, operated on the beach must have a tire-to-ground pressure of ten pounds per square inch (10 p.s.i) or less.
- D. Eighteen-inch (18") high cones, orange in color, shall be placed in front of, and at the rear of a motor vehicle when parked on the beach. Motor vehicle and small off-road vehicle operator must inspect the vehicle perimeter and surrounding area, prior to turning the vehicle ignition switch, to assure a clear path of egress and only proceed with extreme caution. Motor vehicles and small off-road vehicles must always remain on the "hard-packed" sand area. Driving or parking on any "soft-sand" area is prohibited.
- E. All motor vehicles must have signage, on each side, with the name of the concession operator in 4" high letters on a contrasting background, using a standard Helvetica type font.
- F. All small off-road vehicles must have signage with the name of the Concessionaire in 4" high letters on a contrasting background, using a standard Helvetica type font.
- G. **Each concession operation shall be limited to the use of one (1) vehicle (whether said vehicle is a motor vehicle or a small off-road vehicle), and one (1) trailer attached thereto, to supply and/or service a concession operation.**
- H. Due care and caution must be utilized at all times while driving any motor vehicle or small off-road vehicle, and any trailer attached thereto, on the beach.
- I. Prior to entering the beach area, drivers will turn on their vehicle headlights and flashers, if available.
- J. Both the passenger and driver's side front windows of the motor vehicle shall be rolled down while operating said motor vehicle on the beach.
- K. All motor vehicles and small off-road vehicles, and any trailers attached thereto, shall stay *west* of the garbage cans on the **hard packed sand** at all times. The only exception to this rule is for concession operations that have been authorized to conduct watersport activities and are in the process of deploying, servicing, or removing watersport equipment from the concession operation. Said deployment,

servicing, or removal of watersport equipment must be conducted with no less than one additional concession employee that will be positioned on the beachfront, to directly supervise and guide, said deployment, service, or removal operation, to ensure the safety of the beach going public. Additionally, during any deployment, service, or removal operation, the Concessionaire shall be responsible to place no less than eight (8), eighteen-inch (18") high cones, orange in color, no less than four (4) on the northernmost boundary and no less than four (4) on the southernmost boundary of the projected path (from hard-packed sand to the shore line) of the motor vehicle or small off-road vehicle, to create a clear non-obstructed path perpendicular to the shoreline, of no less than twenty-five feet (25'-0") in width (when measured from north to south). Vehicle driver and supervising concession employee must independently inspect the vehicle perimeter, surrounding area, and path (once marked) prior to turning the vehicle's ignition switch, to assure a clear path of ingress to the shoreline or egress to the hard packed sand and only then, proceed with the respective operation with extreme caution to ensure the safety of all beachfront patrons.

- L. Use of a cellular phone by the driver while the motor vehicle is in motion is prohibited. Motor vehicle gear shift must be placed in the "park" position and the emergency break engaged prior to any use of a cellular telephone by the driver.
- M. Concessionaire, its employees, and contractors, are prohibited from driving their personal vehicle, whether said vehicle is a motor vehicle, small off-road vehicle, or any other type of vehicle (e.g. motorcycle), on the beach at anytime.
- N. Any motor vehicle or small off-road vehicle not reflected in the attached "Vehicle Information Sheet", and/or not approved by the City, will be required to leave the beachfront immediately. Three (3) or more notices from the City of this violation may, at the discretion of the City, lead to the City's immediate revocation and/or termination of the Concessionaire's Agreement to operate its beachfront concession.
- O. No motor vehicle, or small off-road vehicle, or any trailer attached thereto, may be parked or left unattended on the beach, at any time or for any reason.



INSURANCE REQUIREMENTS

Please submit all information to:

City of Miami Beach
Office of Real Estate
1755 Meridian Avenue, Suite 300
Miami Beach, Florida 33139

Additionally, please provide an updated Certificate of Insurance, as proof of vehicle liability insurance (**City of Miami Beach must be named as an additional insured**), in accordance with the current insurance requirements in the Rules and Regulations. Vehicle insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following limits:

- Bodily injury..... \$1,000,000 per person
- Bodily injury..... \$1,000,000 per accident
- Property Damage..... \$1,000,000 per accident

Notwithstanding any of the aforesaid rules governing the use of motor vehicles, small off-road vehicles, and any trailer attached thereto, on the beach, any and all language, not otherwise here amended, contained in the Rules and Regulations and/or the Concession Agreement by and between the Concessionaire and the City shall continue to remain in full force and effect.

I would like to thank you in advance for your prompt attention to this matter, and your continued cooperation in this regard. If you have any questions or require additional clarification, please do not hesitate to contact me at 305-673-7193.

PLEASE BE ADVISED THAT FAILURE TO SUBMIT THE REQUESTED VEHICLE INFORMATION SHEET AND UPDATED CERTIFICATE OF INSURANCE (REFLECTING VEHICLE LIABILITY COVERAGE) PRIOR TO THE USE OF THE VEHICLE ON THE BEACH, MAY RESULT IN THE CITY'S IMMEDIATE TERMINATION OF YOUR AGREEMENT TO OPERATE A BEACHFRONT CONCESSION.

Exhibit B

MIAMI BEACH

OFFICE OF THE CITY MANAGER

NO. LTC # 065-2016

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: February 9, 2016

SUBJECT: Marine and Waterfront Protection Authority:
2015 Resolutions related to Beachfront Concessions

The purpose of this Letter to Commission (LTC) is to provide you with correspondence received from the Marine and Waterfront Protection Authority Board (MWPA) pertaining to Beachfront Concessions.

Below please find MWPA Board resolutions passed during various MWPA 2015 meetings. MWPA recommended that the following motions be sent to the State of Florida for review.

Marine and Waterfront Protection Authority Resolutions and Motions:

1. That the workable (Beachfront Concessions) area shall consist of 60% of the concession area divided equally along the East-West centerline of the concession area. The remaining 40% shall be equally divided and laid along the North and South boundaries, and shall be called "buffer areas" and/or public access.
Action: Motion made by Dr. Morris Sunshine, seconded by Cpt. Daniel Kipnis.
(Vote 7-0)
2. That highly visible physical markers be used to clearly identify usable and buffer areas and that these buffer zones be set by GPS.
Action: Motion made by Sasha Boulanger, seconded by Dr. Morris Sunshine.
(Vote 7-0)
3. That buffer zones be reserved for use only by the public.
Action: Motion made by Dr. Morris Sunshine, seconded by Albert Parron.
(Vote 7-0)
4. That the allowable storage area be reduced from 50% to 30%.
Action: Motion made by Dr. Morris Sunshine, seconded by Sasha Boulanger.
(Vote 7-0)

5. That storage be allowed North and South along the beach and not East and West as currently proposed.

Action: Motion made by Dr. Morris Sunshine, seconded by Albert Parron.
(Vote 7-0)

6. That concessionaire beach chairs be provided on demand.

Action: Motion made by Lizette Lopez, seconded by Albert Parron.
Dr. Morris Sunshine amended the motion to allow for 10% of chairs to be set up at the beginning of the day, and that the rest of the chairs be provided as requested.

7. That concessionaires with cooking facilities be subject to at least one annual inspection.

Action: Motion made by Sasha Boulanger, seconded by Dr. Morris Sunshine.
(Vote 7-0)

8. That the City consider instead of monetary fines, shutting down the operation of the site for varying lengths of time.

Action: Motion made by Dr. Morris Sunshine, seconded by Robert Schwartz.
(Vote 7-0)


JLM/SMT/HC/RS/MAC/MG/clr

- C: Susanne M. Torriente, Assistant City Manager
Hernan Cardeno, Esq., Code Compliance Department Director
Robert Santos-Alborná, Code Compliance Assistant Department Director
George Castell, Code Compliance Manager
Mercedes A. Carcasses, Code Compliance Administrator & Marine Authority Liaison
Morgan Goldberg, Neighborhood/Community Affairs Committee Liaison

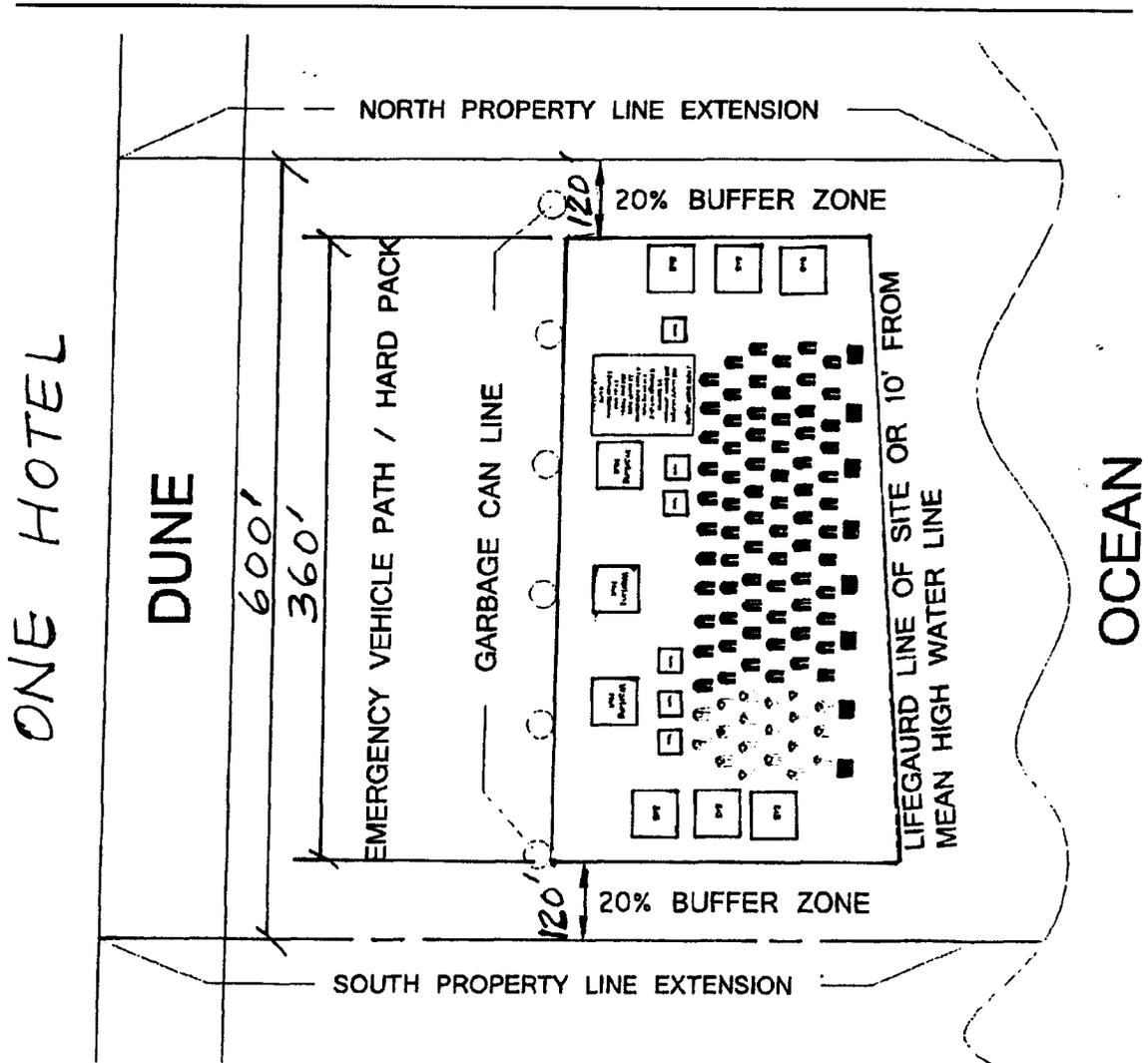
Exhibit D

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

TOURISM, CULTURE AND ECONOMIC DEVELOPMENT DEPARTMENT
Office of Real Estate
Tel: 305-673-7193 / Fax: 786-394-4539

BEACHFRONT CONCESSION LAYOUT

THE ONE HOTEL – 2377 COLLINS AV.

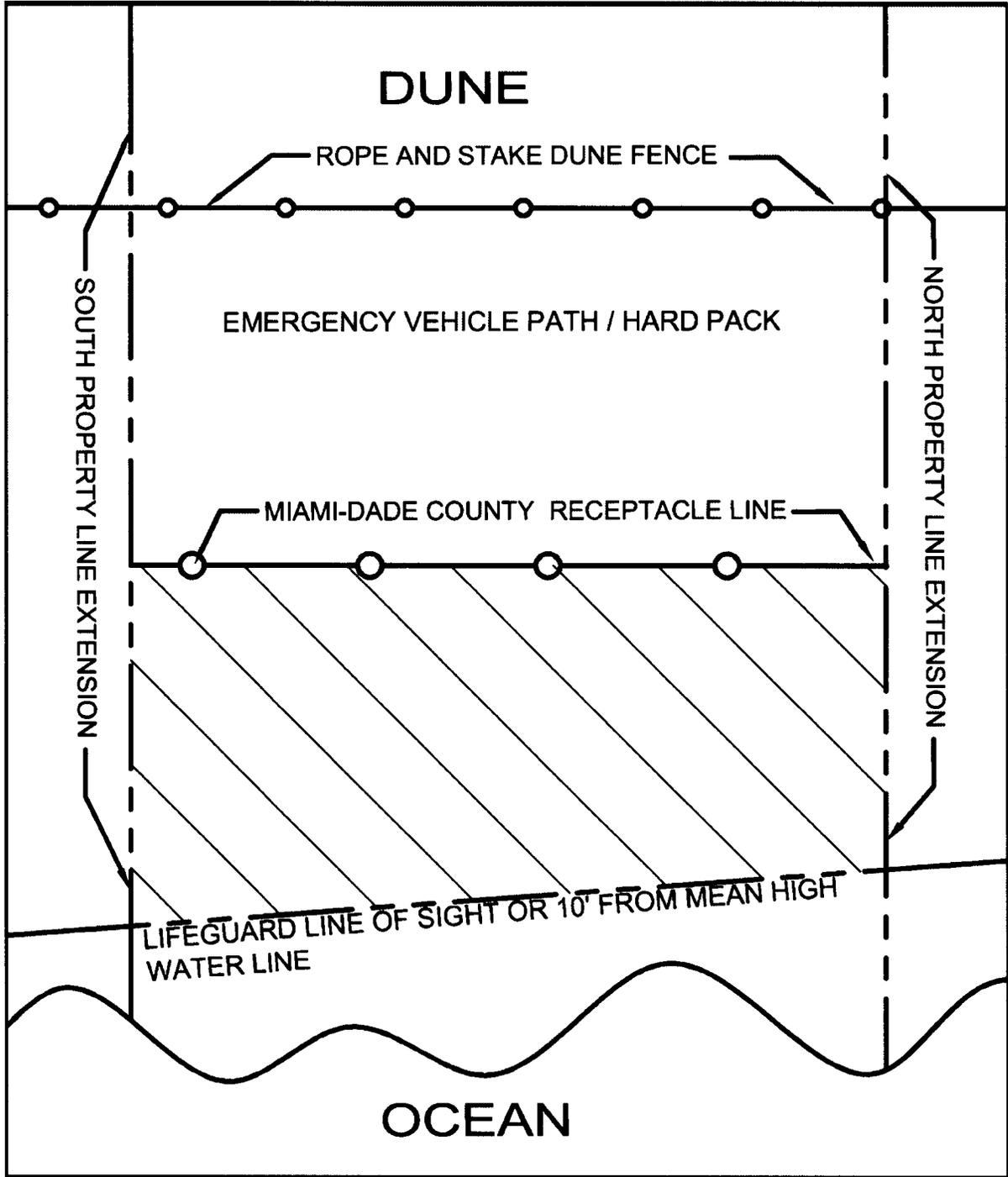


Upland Owner Acknowledgement (please initial here) RS

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

Exhibit E

BEACH CONCESSION LAYOUT



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE AND APPROVING THE ATTACHED THIRD AMENDED AND RESTATED RULES AND REGULATIONS FOR BEACHFRONT CONCESSION OPERATIONS.

WHEREAS, on September 5, 2001, the City Commission adopted Resolution No. 2001-24571 approving the Second Amended Rules and Regulations for Beachfront Concession Operations; and

WHEREAS, on January 30, 2002, the City Commission adopted Resolution No. 2002-24736 amending the Second Amended and Restated Rules and Regulations for Beachfront Concession Operations to include rules for beach chair deployment, design guidelines for concession facilities, and rules for watersport operations, in accordance with the Administration's recommendations contained in the Commission Memorandum; and

WHEREAS, On March 17, 2003, the Second Amended and Restated Rules and Regulations for Beachfront Concession Operations were further amended to include the Administration's policy for vehicle operations on the beach; and

WHEREAS, since this time, due to changing conditions on the beach, the Rules and Regulations need to be revised to more adequately address current operating conditions; and

WHEREAS, the Administration has solicited input from the upland owners, beachfront concessionaires, members of the public, the Marine and Waterfront Protection Authority, and representatives from Miami-Dade County with regard to the attached Third Amended and Restated Rules and Regulations for Beachfront Concession Operations; and

WHEREAS, the Administration submitted a proposed Third Amended and Restated Rules and Regulations For Beachfront Concession Operations to the Neighborhood/Community Affairs Committee (NCAC) at its April 15, 2016 meeting, and the NCAC approved the proposal and further recommended that the beachfront behind public properties, such as City-owned parks, City-owned parking lots and street ends, as well as the beachfront area immediately west of the shoreline (and east of concession operations, if existing) shall act as buffer zones beachwide; and also recommended that the existing food trailers be eliminated two (2) years following the adoption of the revised Rules and Regulations and be replaced with a beachwide food trailer program which shall be procured with a Request for Proposals (RFP); and

WHEREAS, the Administration recommends the approval of the Third Amended and Restated Rules and Regulations for Beachfront Concession Operations which are attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby accept the recommendation of the Neighborhood/Community Affairs Committee, and approve the attached Third Amended and Restated Rules and Regulations For Beachfront Concession Operations.

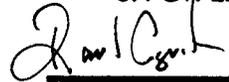
PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

Philip Levine, Mayor

Rafael E. Granada, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

5/14/16

Date

DT

MIAMI BEACH

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

TOURISM, CULTURE AND ECONOMIC DEVELOPMENT DEPARTMENT
Office of Real Estate
Tel: 305-673-7193 / Fax: 786-394-4539

Third Amended and Restated RULES AND REGULATIONS FOR BEACHFRONT CONCESSION OPERATIONS

The following Rules and Regulations (the “Rules and Regulations”) shall apply to Beachfront Concessions within the City of Miami Beach:

1. **DEFINITIONS.**

- (a) **Beachfront Concession** – beachfront operations authorized by the City of Miami Beach to either: 1) the Upland Owner Concessionaire, or 2) a Direct City Concession Operator, subsequent to the submission of all requirements, which grants the right to use the public beach land to rent beach equipment (lounge chairs, umbrellas and the like), sell food and beverages and/or rent watersports equipment, or to furnish, without charge, any of the foregoing.
- (b) **Beachfront Concession Layout** – a schematic plan (as depicted and described in “Exhibit 1”) submitted to, and approved by, the City of Miami Beach which illustrates, in conjunction with the Concessionaire equipment list, the Concession Facilities that the Concessionaire is permitted to have within the Workable Area.
- (c) **Concessionaire** – any Direct City Concession Operator, Upland Owner Concessionaire, or Third Party Concession Operator.
- (d) **Concession Area** – the area to be occupied or otherwise used by the Concessionaire, which shall be east of the dunes, west of the shoreline, and:
 - (1) in the case of an Upland Owner Concessionaire and its Third Party Concession Operator, if any, bounded by the extensions of the north and south property lines of the Upland Property, all as determined by the City of Miami Beach; or
 - (2) in the case of a Direct City Concession Operator, all as determined by the City of Miami Beach.
- (e) **Concession Facilities** – Concession Huts and Storage Boxes (as depicted and described in “Exhibit 2”), as well as any other items or equipment including, but not limited to, cooking, heating, and refrigeration equipment or furnishings approved by the City of Miami Beach in connection with the Beachfront Concession.

- (f) **Direct City Concession Operator** – a provider of beach concession management and operation services who has been contracted directly by the City of Miami Beach.
- (g) **Motor Vehicle** – any City-approved automobile, truck, sport utility vehicle, golf cart, all-terrain vehicle (ATV), or any other means of transportation that is, to the extent required by law, approved and appropriately licensed by the Florida Department of Transportation and/or Florida Department of Motor Vehicles to travel on paved roadways, including any Trailer or Concession Facility.
- (h) **Third Party Concession Operator** – a provider of beach concession management and operation services who has been subcontracted by the Upland Owner Concessionaire, excluding Direct City Concession Operators.
- (i) **Trailer** – any non-motorized vehicle or other means of transportation (e.g., jet ski trailers), with wheels, or constructed so that it can be fitted with wheels, and which is used or intended to be used for any one of the following purposes:
 - (1) the rental of watersports equipment;
 - (2) the sale of food and/or beverages; or
 - (3) the distribution, delivery, towing and return of anything, including, without limitation, jet skis, towels, chaises, cabanas, umbrellas, and personal property.
- (j) **Upland Owner Concessionaire** – the legal owner of the Upland Property and operator of a Beachfront Concession who is authorized:
 - (1) to conduct its own beachfront operations; and/or
 - (2) to subcontract its beachfront operations to a Third Party Concession Operator.
- (k) **Upland Property** – the folio of land adjacent to, and immediately westward of, the public beach utilized by an authorized Beachfront Concession.
- (l) **Workable Area** – the portion of the Concession Area bounded on the west by the trash receptacle line, and on the east by the lifeguard line of sight (or 10 feet from the mean high water line, whichever is further from the water), and bounded by the extensions of the north and south property lines of the Upland Property in the case of an Upland Owner Concessionaire, all as determined by the City of Miami Beach. The Concessionaire shall not be allowed to place any Concession Facilities outside of the Workable Area.

2. GENERAL CONDITIONS.

- (a) Each applicant to the City for approval as either a Direct City Concession Operator or an Upland Owner Concessionaire (“Applicant Concessionaire”) must provide the City with written acknowledgment (*see Exhibit 3, Beachfront Concession Application, Page 6 of 11*) of its understanding of, and agreement to abide by, these Rules and Regulations prior to being granted a Beachfront Concession. The entire application must be signed on behalf of the Applicant Concessionaire by a senior management authorized individual; must contain the

printed or typed name and title of the signer, whose signature must be notarized; must be accompanied by a report of the Secretary of State of the State in which the Applicant Concessionaire is organized, which report must be dated not more than thirty (30) days before the submission of the application and must reflect that the Applicant Concessionaire is in good standing and that the application's signer holds a position which indicates his authority to sign the application; and must comply with all of the City's requirements for the application, including the following acknowledgments:

- (1) a written acknowledgment (*see Exhibit 3, Beachfront Concession Application, Page 6 of 11*) of its understanding of, and agreement to abide by, these Rules and Regulations prior to being granted a Beachfront Concession;
- (2) a written acknowledgment of its acceptance of its obligation, as to each person who, on its behalf, is to operate a Motor Vehicle on the beach ("Prospective Driver"), to do the following before the Prospective Driver drives any Motor Vehicle:
 - (A) sign, in addition to the Prospective Driver, duplicate originals of the Safe Driving Agreement (in substantially the form attached as "Exhibit 4" or as amended by the City from time to time), with one fully-signed original to be held by the Concessionaire and the other fully-signed original to be delivered by the Concessionaire to the Prospective Driver;
 - (B) retain, and make available for inspection by the City upon its request, each such fully-signed Safe Driving Agreement throughout the period that the Prospective Driver is operating a Motor Vehicle on behalf of the Applicant Concessionaire and for a period of two years after the Prospective Driver ceases to operate a Motor Vehicle on behalf of the Applicant Concessionaire; and
 - (C) require the Prospective Driver to satisfactorily complete a one-hour training course to instruct the Prospective Driver in the operation of a Motor Vehicle in compliance with the Safe Driving Agreement, said training to include actual operation by the Prospective Driver of the type of Motor Vehicle which he or she is anticipated to drive;
- (3) if the Applicant Concessionaire seeks approval as a Direct City Concession Operator, a written acknowledgment that it will not subcontract to any other person or entity the performance of any of its duties and obligations as a Direct City Concession Operator;
- (4) if the Applicant Concessionaire seeks approval as an Upland Owner Concessionaire, a written acknowledgment that, if it contracts with a Third Party Concession Operator for the management and operation of all, or a part of, the Beachfront Concession, the Upland Owner Concessionaire shall remain responsible to the City for performing under the terms and conditions of the Beachfront Concession;

The Applicant Concessionaire's application is not complete and will not be considered by the City if any of the City's application requirements (including the above acknowledgments) are not satisfied. The City reserves the right, before considering any application, to require that any documentation or information be updated, expanded, and resubmitted if it is deemed necessary by the City in order to clarify and/or confirm any such documentation or information.

- (b) Any Beachfront Concession granted pursuant to these Rules and Regulations shall not be construed to vest any additional rights upon the Concessionaire that do not otherwise exist, except for the privilege of temporary use of the beachfront in accordance with the conditions and requirements set forth in these Rules and Regulations and all other applicable City, County, State, and Federal laws. Concessionaires are hereby notified that all beaches within the City of Miami Beach are public and, as such, Beachfront Concession operations must not restrict, or appear to restrict, access or in any way limit the public nature or ambiance of the beachfront.
- (c) Concessionaires must abide by all City, County, State, and Federal laws, and these Rules and Regulations as amended or adopted hereafter with regard to the use of the beachfront areas.
- (d) Every Motor Vehicle or Concession Facility which is present on the beach, either stationary or capable of movement, and every Concessionaire which conducts any operations on the beach, shall comply with the requirements of these Rules and Regulations for Beachfront Concession Operations as applicable, except that the following are exempt from these requirements: the personnel, operations, or vehicles of any governmental agency.
- (e) There is no responsibility on behalf of the City of Miami Beach for any lost, stolen, or damaged property belonging to a Concessionaire.
- (f) Concessionaires are responsible for any damage caused to any City-owned property and/or the beachfront during the time of its usage of said areas.
- (g) Concessionaires must submit a written evacuation plan to the City for the prompt removal from the beach of all Motor Vehicles, Trailers, and Concession Facilities. The plan shall be implemented within one (1) hour of notification by appropriate City authorities and within eight (8) hours of the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management. This plan must be submitted to the City for approval (*see Exhibit 3, Beachfront Concession Application, Page 9 of 11*). An operation plan must also be submitted (*see Exhibit 3, Beachfront Concession Application, Page 7 of 11*). Each Concessionaire shall conduct a drill once per year, at the City's discretion, prior to hurricane season, to remove all of its Concession Facilities from the beach.
- (h) The City reserves the right to amend these Rules and Regulations. Said amendments shall be binding on all Concessionaires.

3. BUSINESS TAX RECEIPTS AND FEES.

- (a) A City Business Tax Receipt (valid from October 1 through September 30 of the following year) is required for each activity which Concessionaire operates on the beachfront (Example: a Concessionaire providing food and beverage sales, and beach equipment rentals, must obtain two Business Tax Receipts). The issuance of a Business Tax Receipt by the City is conditioned upon, and subject to, compliance with these Rules and Regulations, as amended

from time to time. Said Business Tax Receipt(s) shall be considered null and void if the City withdraws, discontinues, or otherwise revokes the authorization granted to the Concessionaire to operate a Beachfront Concession.

b) In addition to the Business Tax Receipts required in Paragraph 3(a) above, an Upland Fee, currently in the amount of \$21.00 per Upland Unit for Fiscal Year 2015/16 (increased annually in accordance with the Consumer Price Index), up to a maximum of \$15,000 per Upland Property (increased annually in accordance with the Consumer Price Index), will be required of each concession location. The number of Upland Units shall be determined by the City's Finance Department.

c) In the event the Concession Area is utilized by any additional property or properties, other than the Upland Property, the Upland Property owner must receive prior written approval from the City and shall pay an Upland Fee, per property, based on the number of units contained in the Upland Property and any additional properties. There shall be no maximum Upland Fee for Beachfront Concessions utilized by multiple properties or for two or more Beachfront Concessions held by a Concessionaire. These fees shall be due and payable in advance prior to the City's granting authorization for a Beachfront Concession, and prior to October 1, of each year thereafter.

4. INSURANCE.

(a) Every Concessionaire must maintain the required Beach Concession Insurance set forth in the attached "Exhibit 5" at all times. Every Concessionaire shall:

(1) furnish to the City a Certificate of Insurance, in customary form and substance, evidencing compliance with those requirements; and

(2) furnish to the City a renewal Certificate of Insurance, in customary form and substance, evidencing compliance with these requirements, at least fifteen (15) calendar days before:

(A) the expiration of a current Certificate of Insurance; or

(B) the effective date of any cancellation of the insurance;

(b) In the event the Concession Area is utilized by any additional person or entity which is not a Concessionaire, each such person or entity must maintain the required Beach Concession Insurance requirements set forth in the attached "Exhibit 5" at all times. The Concessionaire is responsible for compliance with these requirements by said additional person or entity. This Paragraph 4(b) shall not be interpreted or applied in any manner to diminish the responsibilities of the Concessionaire or to authorize the use of the Concession Area by any additional person or entity.

5. CONCESSION AREA.

(a) Each Concessionaire shall comply with the approved Beachfront Concession Layout (form attached hereto and marked as "Exhibit 1"), which sets forth the Workable Area of the Beachfront Concession, and shall stay within the Workable Area. The Concessionaire shall not be allowed to place Concession Facilities anywhere outside of the Workable Area. The Concessionaire shall not permit patrons to place any chairs, umbrellas, or any other items/equipment belonging to the Concessionaire outside of the Workable Area.

(b) Notwithstanding Paragraph 5(a) above, due to the irregular curve of the beach at 20th Street, the Concessionaire immediately south of 20th Street shall be permitted to occupy the

street end of 20th Street. Use of street ends by Concessionaires at all other locations is prohibited.

(c) Concession Facilities, other than trash receptacles and beach chairs/umbrellas, shall not occupy more than forty percent (40%) of the north/south distance of the Workable Area. By way of example, if the north/south distance of the Workable Area is 100 feet, and the Concession Huts and Storage Boxes are 10 feet by 10 feet each, there shall be no more than a combination of four (4) Concession Huts and/or Storage Boxes permitted within the Workable Area. Notwithstanding the foregoing, Concession Huts and/or Storage Boxes shall be permitted to be placed/stacked east and west of each other.

(d) Concessionaires shall place, if included as part of the Beachfront Concession Layout, one (1) Storage Box at the southwest corner of the Workable Area and one (1) Storage Box at the northwest corner of the Workable Area, as a means to identify said boundaries of the Workable Area.

(e) The Workable Area shall be set up every day no earlier than one (1) hour after sunrise and removed no later than one (1) hour before sunset, except that from April 1 to October 31 (including Holidays and Weekends), Concessionaires must wait until Miami-Dade County has conducted its morning turtle nesting survey before commencing set up (the "Operating Hours").

(f) The Concessionaire shall post signs which state "BEACH OPEN TO THE PUBLIC" on all Concession Huts and Storage Boxes. Said signs shall include, for commercial Beachfront Concessions, the prices to be paid by the public, to the extent applicable, for food and beverages, the rental of watersports equipment, and the rental of beach equipment. Said signs shall require prior written approval by the City.

(g) The Concessionaire shall post the following items in a visible location inside the Concession Huts: 1) a copy of the Business Tax Receipt, 2) a copy of these Rules and Regulations, and 3) basic operating procedures for Concessionaire staff, which procedures shall be subject to review and approval by the City (i.e., time of deployment of equipment, location of equipment, collection of trash, etc.).

(h) Concession Facilities shall be neat, clean, and well maintained at all times. The concession operation must be aesthetically pleasing and non-detrimental to the surrounding environment. Any graffiti shall be removed or re-painted with matching paint within twenty-four (24) hours.

(i) Beachfront Concession activities, including the placement and/or use of umbrellas, canopies, etc., shall not obstruct the view of a lifeguard. Any request from a lifeguard to relocate any item that obstructs his/her view shall be treated as an emergency and the item shall be relocated immediately.

6. FOOD AND BEVERAGE SERVICE.

(a) A Food Service license issued by the Florida Department of Business and Professional Regulation - Division of Hotels and Restaurants for the food service unit must be supplied by the applicant for a Beachfront Concession before a City Business Tax Receipt for a Food and Beverage Beachfront Concession may be issued.

(b) If the Beachfront Concession includes food and beverage service, then at least one supervisory employee must possess a Food Service Management Certification issued by the Miami-Dade County Public Health Department. In addition, each food service facility must be licensed by the Florida Department of Business & Professional Regulation - Division of

Hotels and Restaurants (8240 NW 52nd Terrace, Suite 101, Doral, Florida, 33166; telephone: 850-487-1395).

(c) Cooking and heating Concession Facilities will only be permitted at those locations (1) where cooking and heating Concession Facilities activities have been continuously engaged in pursuant to a valid Business Tax Receipt from the City issued on or before September 5, 2001, and (2) the same Concessionaire has continued to possess a valid Business Tax Receipt for each year thereafter. Any cooking and heating Concession Facilities which were authorized and licensed as of September 5, 2001, shall be permitted to remain for a period not to exceed the normal life expectancy (from manufacture date) of a facility located daily on an oceanfront beach, as determined by the manufacturer, or two (2) years after the adoption of these Third Amended and Restated Rules and Regulations, whichever comes first.

(d) Only City-approved Concession Facilities will be permitted. All Concession Facilities must be uniform in color, size, and style, for any given location. Any and all Concession Facilities must receive prior approval by the City, in accordance with the City Planning Department's current Beach Concession Design Guidelines (attached hereto as "Exhibit 2").

(e) Cooking and/or heating Concession Facilities will only be permitted on the beachfront in accordance with applicable City, County, State, and Federal laws, and shall be inspected at least once per year by the City's Fire Department.

(f) Cooking and/or heating Concession Facilities shall only be permitted by means of battery powered, solar powered, or propane gas systems, that are properly approved, permitted, and installed in accordance with applicable City, County, State, and Federal laws. The use of electricity-producing generating devices (generators) is prohibited.

(g) Notwithstanding any other provisions contained herein, all cooking and/or heating Concession Facilities must be removed from the beach at least 1 hour before sunset; shall not be permitted to remain on the beach overnight; and shall not be located on the beach prior to 1 hour after sunrise.

7. WASTE DISPOSAL.

(a) The Concessionaire shall provide, at its sole expense, at least two (2) City approved trash receptacles (one (1) for trash and one (1) for recyclable materials) within the confines of the Concession Area, approved for its use and for the use of the public. Additionally, the Concessionaire shall provide, at its sole cost and expense, City-approved individual, disposable ashtrays for all patrons smoking within the Concession Area. Said ashtrays shall be branded consistent with the Miami Beach litter campaign. Disposal of the contents of said trash receptacles, disposable ashtrays, and the removal of all other trash or litter from the Concession Area, shall be performed in accordance with Section 7(b), and shall be the sole responsibility of the Concessionaire.

(b) Each Concessionaire shall be responsible for the collection of all trash, litter, disposable ashtrays, and cigarette and cigar butts within the entire Concession Area, irrespective of whether such materials are in trash receptacles or disposable ashtrays or in the sand, prior to the placement of any umbrellas or chairs each morning and at the end of each day of operation. Unless otherwise approved in writing by Miami-Dade, County, all such materials collected by the Concessionaire must be removed from the beach and disposed of by the Concessionaire and shall not be placed in the Miami-Dade County or City of Miami Beach serviced trash receptacles or dumpsters under any circumstances.

8. STORAGE.

(a) There shall be no overnight storage of any kind east of the dune line on the beach, except for the following:

(1) Beach chairs, day beds, and cabanas will be permitted to remain within the Workable Area overnight, as long as they are in good condition, neatly stacked, and orderly arranged side-by-side, running east and west, immediately adjacent to the Storage Boxes/Concession Huts. Stacked equipment shall not interfere with beach cleaning and grooming operations, as determined by the City of Miami Beach. In no event shall the stacked equipment exceed a height of eight (8) feet.

(2) Concession Huts and Storage Boxes will be allowed to remain on the beach, as long as they are well maintained, adequately secured to prevent unauthorized access, and kept east of the west boundary of the Workable Area. Concession Huts and/or Storage Boxes shall only be used for dispensing services and/or storage of items or equipment, approved by the City of Miami Beach, used in connection with a Beachfront Concession.

(b) Trailers for storage shall not be permitted anywhere on the beach at any time, or on any adjacent dune area or spoil area (west of the dune area), except that not more than one storage trailer per concessionaire may be permitted to be parked only immediately east of the dune area and only during Operating Hours as defined in Rule 5(e); and only if one of the following is applicable:

(1) Weekend days; or

(2) New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Columbus Day, Thanksgiving Day, and Christmas Day; or

(3) Anytime between March 1 and April 15; or

(4) The Concessionaire has submitted a written request with a statement of the reason for such request to the City Manager, or his designee, which may be granted or denied based upon the City Manager's sole determination that such authorization is in the best interest of the City.

All Such storage trailers shall at all times: comply with all the requirements applicable to Trailers under these Rules and Regulations; be well maintained and properly painted; and be adequately secured to prevent unauthorized access.

(c) Storage or parking of jet ski trailers, unless actively deploying jet skis, shall not be permitted on the beach or any adjacent dune area or spoil area.

9. STAFFING.

(a) During operating hours, each Concession Area shall have at least one (1) employee on-site at all times.

(b) All employees of the Concessionaire working within the Concession Area shall wear uniforms, which include the name of the Concessionaire, and must comport themselves in

a professional and courteous manner at all times during Operating Hours. In the event the uniforms do not include the name of the employee then there must be an employee roster contained at the Concession Hut. The Concessionaire is responsible for the actions, behavior, and work permits for each of its employees and its subcontractor's employees.

(c) Each Concessionaire must conduct its operations so as to maintain reasonable quiet and make no public disturbances. Hawking to attract attention, and/or summoning or accosting any person is prohibited. The playing of any music or allowing any other activity that disturbs the public is prohibited.

10. SPECIAL EVENTS.

For any use or operation, other than that specifically authorized for a Beachfront Concession, the Concessionaire must comply with any requirements imposed pursuant to Section 12-5 of the City Code and any other applicable City, County, State, and Federal requirements.

11. ENVIRONMENTAL.

The sale or consumption of beverages from cans or glass containers is prohibited. No Concessionaire, member of the public, or any other person or entity shall bring to, or keep or use on, the beach any such cans or glass containers. Beverages must only be dispensed by Concessionaires in, or consumed by members of the public from, paper cups or other biodegradable containers in accordance with applicable City, State, and County requirements. Utensils, plates, to-go, and any other food and/or beverage or food service items, dispensed by Concessionaires or used by members of the public, must only be made from paper or other biodegradable materials. The use of plastic straws (including biodegradable plastic straws) and expanded polystyrene by Concessionaires or members of the public is prohibited. Notwithstanding the foregoing, plastic bottles and plastic cups are permitted.

Furthermore, Section 46-92(c) of the Code of the City of Miami Beach shall apply to all Concessionaires, their employees / subcontractors, and members of the public.

12. WATERSPORTS.

The following regulations specifically apply to Concessionaires offering watersport concessions:

(a) All propeller craft must have propeller guards.

(b) All operations that involve the use of watercraft must have a "chase watercraft vessel" readily available for problems that may arise during the rental of watersports equipment, and be in good working order. The "chase watercraft vessel" is subject to the prior approval of the City.

(c) The operation of all watersport activities (motorized and non-motorized) shall be conducted outside the 300 foot restricted swim area and no closer than 400 feet of any lifeguard stand. The location of each watersport concession shall be subject to the approval of appropriate City Departments.

(d) Concessionaires are responsible for instructing clients on the safe operation of watersports equipment including, without limitation, directions to stay out of all restricted swim areas; to wear a lifejacket at all times; and how to use, and the circumstances for use of, the kill switch.

(e) In its application, each Concessionaire must identify a channel (adjacent to the Concession Area) to be used as an access route through which users of watersport equipment may leave the beachfront and enter open water. Said channel shall be a minimum of 25 feet in width and shall extend 300 feet east, and perpendicular to the shoreline and be marked by removable orange colored buoys which shall be a minimum of eighteen (18) inches in diameter. There shall be a minimum of four (4) buoys on each side of the channel, equally spaced. The water channel shall be marked by the Concessionaire before watersports equipment is used. The channel, and any changes in the channel, must be approved as provided in Section 12(n).

(f) Watercraft shall not exceed "idle speed" within the channel.

(g). The continuous wearing of a life jacket is required for all watersport activities (i.e., waverunners, jet skis, kayaks, paddle boards, etc.). All life jackets must be approved by the U.S. Coast Guard and be in good condition. Concessionaires shall supply all users of watersport equipment with life jackets in appropriate sizes.

(h) Each Concessionaire must comply with the following Florida Statutes, and as such Statutes may be amended - F.S. 327.39, F.S. 327.395, and F.S. 327.54, which includes, in part, the following:

(1) All persons under the age of 14 cannot operate or rent a personal watercraft ("PWC.");

(2) All persons 14 years of age or over, but under age 18, can operate a PWC with a boater ID card but cannot rent a PWC;

(3) All persons 18 years of age, and born on or after January 1, 1988, can rent and operate a PWC with a boater ID card;

(4) All persons born before January 1, 1988 must meet the age requirement to rent and operate a PWC;

(5) Valid identification shall be required by the Concessionaire.

(i) Parasailing shall be conducted only from winch boats operating beyond the restricted swim areas.

(j) All watercraft equipment shall meet the registration and license requirements of the State of Florida.

(k) All motorized watersports equipment shall be equipped with approved kill switches in good working order. The watersports equipment driver shall wear the kill switch activator at all times.

(l) Fueling watersports equipment is allowed on the beach under the following conditions only: signs must be posted where the gasoline is kept; cans which are spill-proof must be used; residents, tourists, and the general public, must be kept a safe distance from where the fueling process is taking place. Fuel shall not be stored on the beach overnight. Fueling must be completed over a secondary vessel to prevent spillage.

(m) The equipment permitted to be used in a watersport Beachfront Concession operation consists of a maximum of five (5) waverunners for rent, and a combined total of six (6) kayaks and/or paddleboards for rent. Notwithstanding the foregoing, the Beachfront Concessions located at 1601 Collins Avenue (Loews Hotel) and 4441 Collins Avenue

(Fontainebleau Hotel) have additional grandfathered equipment, including additional waverunners, banana boats, and parasail operations.

(n) Any change to, or addition of, a watersport Beachfront Concession, or the implementation of a new water channel to accommodate a new watersport Beachfront Concession operation, shall require review by, and a recommendation from, the Marine and Waterfront Protection Authority, as well as written approval by the City Manager or his designee.

13. MOTOR VEHICLES.

(a) A Concessionaire's Motor Vehicle shall only be allowed on the beach for purposes of supplying the Beachfront Concession, and, if and to the extent authorized, to initially deploy equipment and a Trailer at the beginning of the day, to remove the equipment and Trailer (if a Trailer is authorized) at the close of operations each day, and the Concessionaire's Motor Vehicle must leave the beach immediately thereafter. Said supplying, deployment, and removal operations shall only be permitted during a Concessionaire's regular hours of operation, and shall be completed safely. No Motor Vehicle or Trailer is permitted on the beach before 1 hour after sunrise and after 1 hour before sunset. Access to the beach shall only be permitted via the predetermined and assigned beach access points/dune crossovers authorized for such use and nearest to the Concession Area as reflected in the Concession application.

(b) Motor Vehicles, including Motor Vehicles with attached Trailers, operated on the beach shall not exceed 5 M.P.H. and shall only operate on the "hard packed sand" area in the immediate vicinity of the Concession Area, or to-and-from the predetermined and assigned beach access point. After transporting equipment to a Concession Area (as said area is delineated in the "Beachfront Concession Layout" diagram attached to the Concessionaire's authorization to operate a Beachfront Concession) the Motor Vehicle, and any Trailer attached thereto, shall be removed from the beach (except to the extent that said authorization permits the Trailer to remain during the Concession's hours of operation). Driving on the beach shall be kept to a minimum. No Concession-related vehicular traffic will be permitted on the beach, at any time or for any purpose, other than as stated and as approved herein. Driving on the beach from one Concession Area to another to service, supervise, or for any other reason, is prohibited. Concessionaires must exit onto the street to access other locations.

(c) Eighteen-inch (18") high cones, orange in color, shall be placed in front of, and at the rear of, a Motor Vehicle or Trailer when parked on the beach. Concessionaires must inspect the perimeter of the Motor Vehicle or Trailer and surrounding area, prior to starting the engine, to assure a clear path of egress and only proceed with extreme caution.

(d) All Motor Vehicles, Trailers and/or Concession Facilities must each display two (2) "Beach Vehicle Pass" decals containing a unique Identification Number issued by the City. Said Identification Number on the decals must be sufficiently large and clear as will make said Identification Number reasonably visible and readable. No other identification or signage of any kind shall be displayed, except that the name of the Concessionaire which owns and operates the Motor Vehicle, Trailer, and/or Concession Facility may also be displayed, in which case the Upland Owner Concessionaire (if any) may also add its name. The two (2) decals must be placed on opposing sides of the vehicle (either front/back or left/right). The Identification Number will correspond to the number on file with the City which file contains originals or copies of all applications, permits, correspondence, and other materials which concern or relate to the Beachfront Concession and/or the Beach Vehicle Pass decals which have been issued. Locations with multiple Motor Vehicle, Trailer, or Concession Facilities will receive a unique Identification Number for each such Motor Vehicle, Trailer and/or Concession Facility. As to each Motor Vehicle, Trailer, or Concession Facility for which the City issues Beach Vehicle Pass decal, the City shall advise the Concessionaire in writing of the limits applicable to each

such Motor Vehicle, Trailer, or Concession Facility, including the limited area, the limited range, and the limited points of entry to and exits from the beach. Such limits shall be reflected in a document issued by the City which must be displayed in or on the Motor Vehicle, Trailer, or Concession Facility, at all times.

(e) Each Beachfront Concession shall be limited to the use of one (1) motor vehicle servicing the Concession Area at a time and one (1) Trailer, to supply and/or service a the Beachfront Concession. Notwithstanding the foregoing, Beachfront Concessions with a watersports permit shall be allowed one (1) additional vehicle to service the watersports operation.

(f) Due care and caution must be utilized at all times while driving any Motor Vehicle, and any Trailer attached thereto, on the beach.

(g) Prior to entering the beach, and at all times while on the beach, drivers must turn on their Motor Vehicle's headlights and front and rear flashers and their Trailer's rear flashers, to the extent that the Motor Vehicle or Trailer is so equipped.

(h) Both the passenger and driver's side front windows of the Motor Vehicle shall be rolled down while operating said Motor Vehicle on the beach.

(i) All Motor Vehicles, and any Trailers attached thereto, shall stay west of the garbage can line on the hard packed sand when travelling north and south, and shall travel only north or south on the beach except to the limited extent necessary for brief periods to deploy, service, or remove anything necessary for the Concessionaire to conduct its operations. All Motor Vehicles, and any Trailers attached thereto, entering the area east of the garbage cans shall travel in a ninety degree angle to the garbage can line. Notwithstanding, all Motor Vehicles shall at all times remain west of all Concession Facilities and other beach equipment (e.g., chairs, umbrellas). The only exception to this rule is for Beachfront Concessions that have been authorized to conduct watersports activities and are in the process of deploying, servicing, or removing watersports equipment from the Concession Area. Said deployment, servicing, or removal of watersports equipment must be conducted with no less than one additional Concession employee who will be positioned on the beachfront to directly supervise and guide said deployment, service, or removal operation, to ensure the safety of the public. Additionally, during any deployment, service, or removal operation, the Concessionaire is required to place no less than eight (8), eighteen-inch (18") high cones, orange in color, no less than four (4) on the northernmost boundary and no less than four (4) on the southernmost boundary of the projected path (from hard-packed sand to the shore line) of the Motor Vehicle to create a clear non-obstructed path perpendicular to the shoreline, of no less than twenty-five feet (25') in width (when measured from north to south). The vehicle driver and a supervising Concessionaire employee must independently inspect the vehicle perimeter, surrounding area, and path (once marked) before starting the engine, to assure a clear path of ingress to the shoreline or egress to the hard packed sand, and only then, proceed with the respective operation with extreme caution to ensure the safety of all beachfront patrons and persons and property on the beach.

(j) Use of a cellular phone or any other electronic device by the driver while the Motor Vehicle is in motion is prohibited. The Motor Vehicle's gear shift must be placed in the "park" position and the emergency break engaged prior to any use of a cellular telephone or any other electronic device by the driver.

(k) Concessionaires, their employees, and contractors, are prohibited from driving their personal vehicles on the beach at any time, irrespective of whether the personal vehicle is a motor vehicle or any other type of vehicle (e.g., motorcycle).

(l) Any Motor Vehicle not reflected in an approved Beachfront Concession "Vehicle Information Sheet," and/or not approved by the City, will be required to leave the beach immediately.

(m) Motor Vehicles and Trailers shall not be parked or left unattended on the beach, at any time or for any reason, except that golf carts and ATVs shall be permitted to park immediately east of the dune for no more than 30 minutes, but only during the Operating Hours of the Concessionaire and only to the extent that the emergency vehicle path remains unobstructed.

(n) Each driver shall be required by the Concessionaire to drive with both hands on the steering wheel at all times.

(o) Each driver shall be required by the Concessionaire to hold at all times a valid and effective Florida chauffeur's or driver's license (whichever the law may require) which is not suspended or revoked.

(p) Each driver shall be required by the Concessionaire to drive at all times without being under the influence of alcohol, drugs, or any substance which may impair the Driver's ability to drive safely.

(q) Each driver shall be required by the Concessionaire, before the Driver begins his or her work for the Concessionaire, to complete a one-hour training course on the operation of a Motor Vehicle in compliance with this Safe Driving Agreement (in substantially the form attached as "Exhibit"4" or as amended by the City from time to time). The training shall include actual operation by the Driver of the type of Motor Vehicle which the Driver is expected to drive.

14. ENFORCEMENT AND PENALTIES.

These Rules and Regulations shall be enforced by the City, as set forth below:

(a) The following monetary penalties shall be imposed for a failure to comply with these Rules and Regulations:

- (1) First offense...a penalty of \$250.00;
- (2) Second offense for the same violation within a 12 month period...a penalty of \$500.00;
- (3) Third offense for the same violation within a 12 month period...a penalty of \$1,000.00;
- (4) Fourth offense and subsequent offenses for the same violation within a 12 month period...a penalty of \$1,500.00.

The City may issue a verbal warning or a written warning for first time violations in lieu of a first offense violation. There shall be a three (3) month transition period, from the date these Rules and Regulations are adopted, when only written warnings will be issued, prior to the City issuing Notices of Violations which include penalties.

Such penalties are in addition to and separate from any violations issued by the City for noncompliance with other sections of the City Code.

(b) The City Manager, or his designee, through its Field Monitor, or other designee, shall enforce the provisions of these Rules and Regulations. As used in these Rules and

Regulations, "Field Monitor" shall include, but not be limited to, a Code Compliance Officer, Park Ranger, or a Police Officer. If a Field Monitor finds a violation of this section, the Field Monitor shall issue a Notice of Violation to the violator. The Notice of Violation shall inform the violator of the nature of the violation, amount of penalty for which the violator is liable, and instructions and due date for paying the penalty.

(c) If a Concessionaire, or any of its employees or independent contractors, is the named violator, and after issuance of the Notice of Violation, the Concessionaire fails to pay the penalty within ten (10) days, the Beachfront Concession may be revoked by the City Manager.

(d) The City reserves the right to suspend or revoke a Concessionaire's Business Tax Receipt(s) and its other authorizations to operate the Beachfront Concession upon satisfaction of the following two conditions:

- (1) a Concessionaire, or any of its employees or independent contractors, is the named violator, in any Notice of Violation of these Rules and Regulations; and
- (2) the Concessionaire, within ten (10) days after issuance of the Notice of Violation, fails to pay the applicable fine.

The suspension or revocation shall be effective ten (10) days after the City sends written notice thereof to the Concessionaire; provided, however, that the City Manager or his designee may order the suspension or revocation to be effective at any earlier time, including the time at which the Notice of Violation is issued, if the City Manager or his designee makes a written determination that the continued operation of the Beachfront Concession is a danger to public health or safety.

(e) A notice sent to a Concessionaire of suspension or revocation, irrespective of when sent, shall state the reason(s) for the suspension or revocation.

(f) Anyone found operating on the beach without the required licenses and approvals will be removed from the beach and will not be allowed to apply for a Beachfront Concession for twelve (12) months thereafter.

Exhibit 1

BEACH CONCESSION LAYOUT

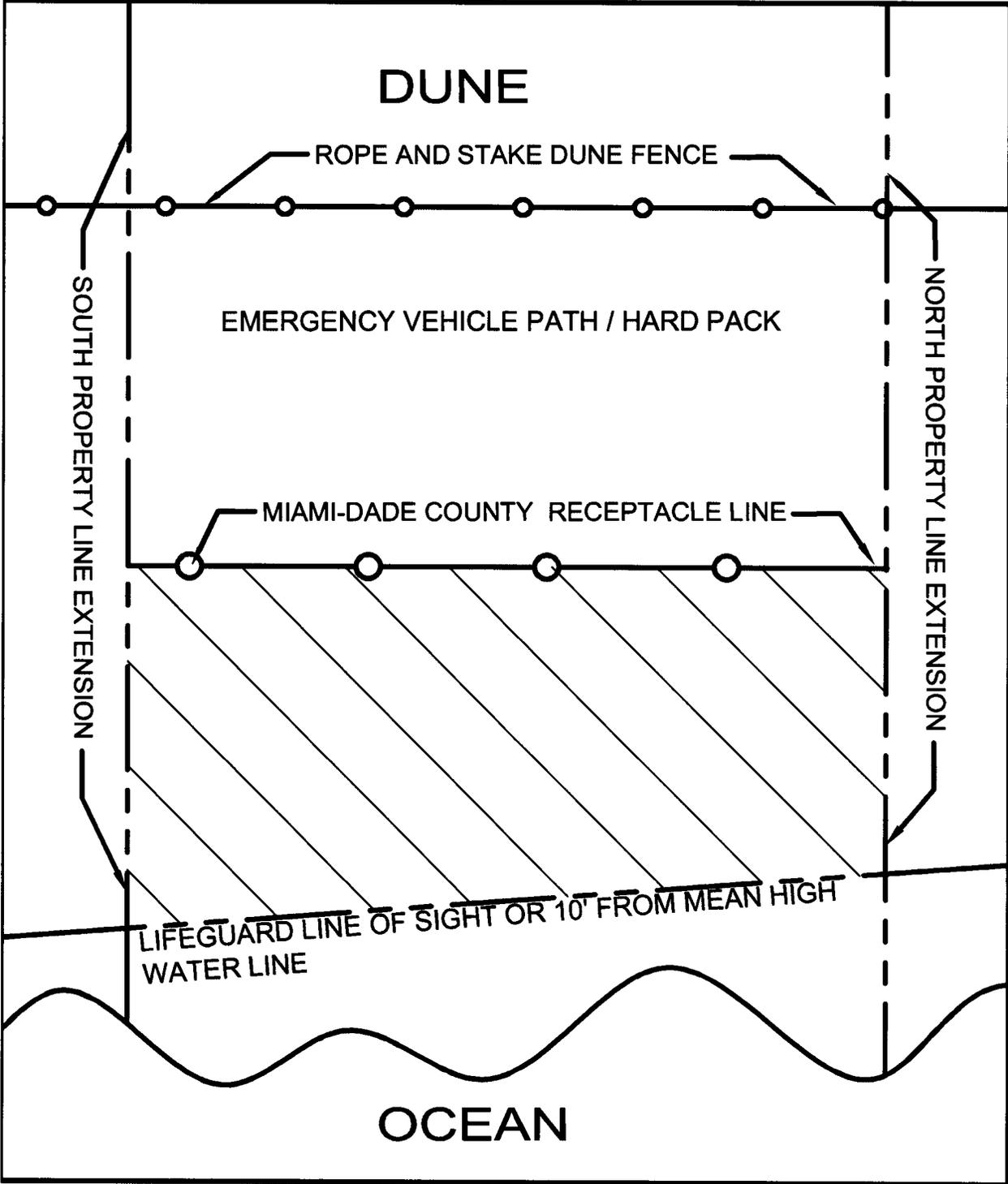
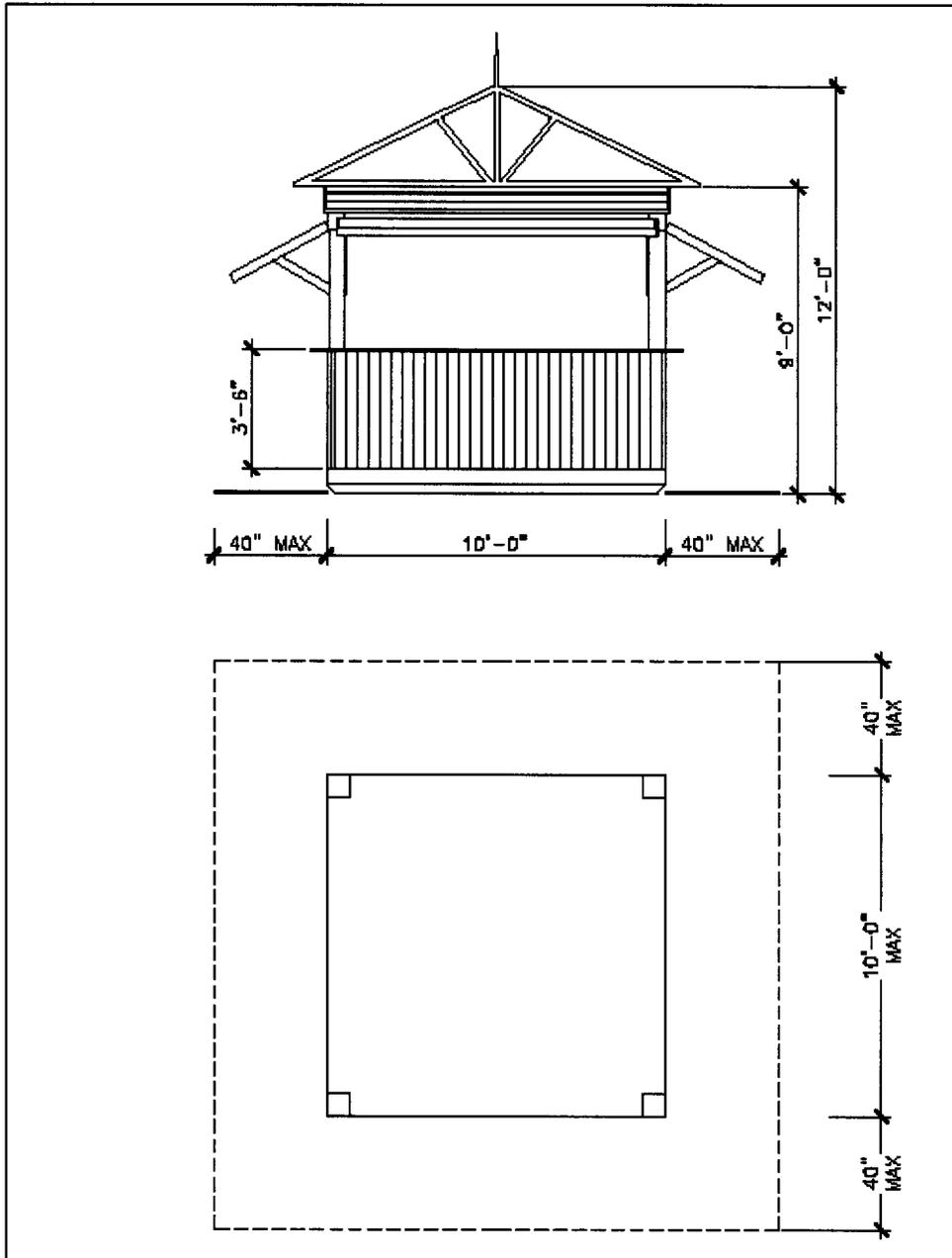


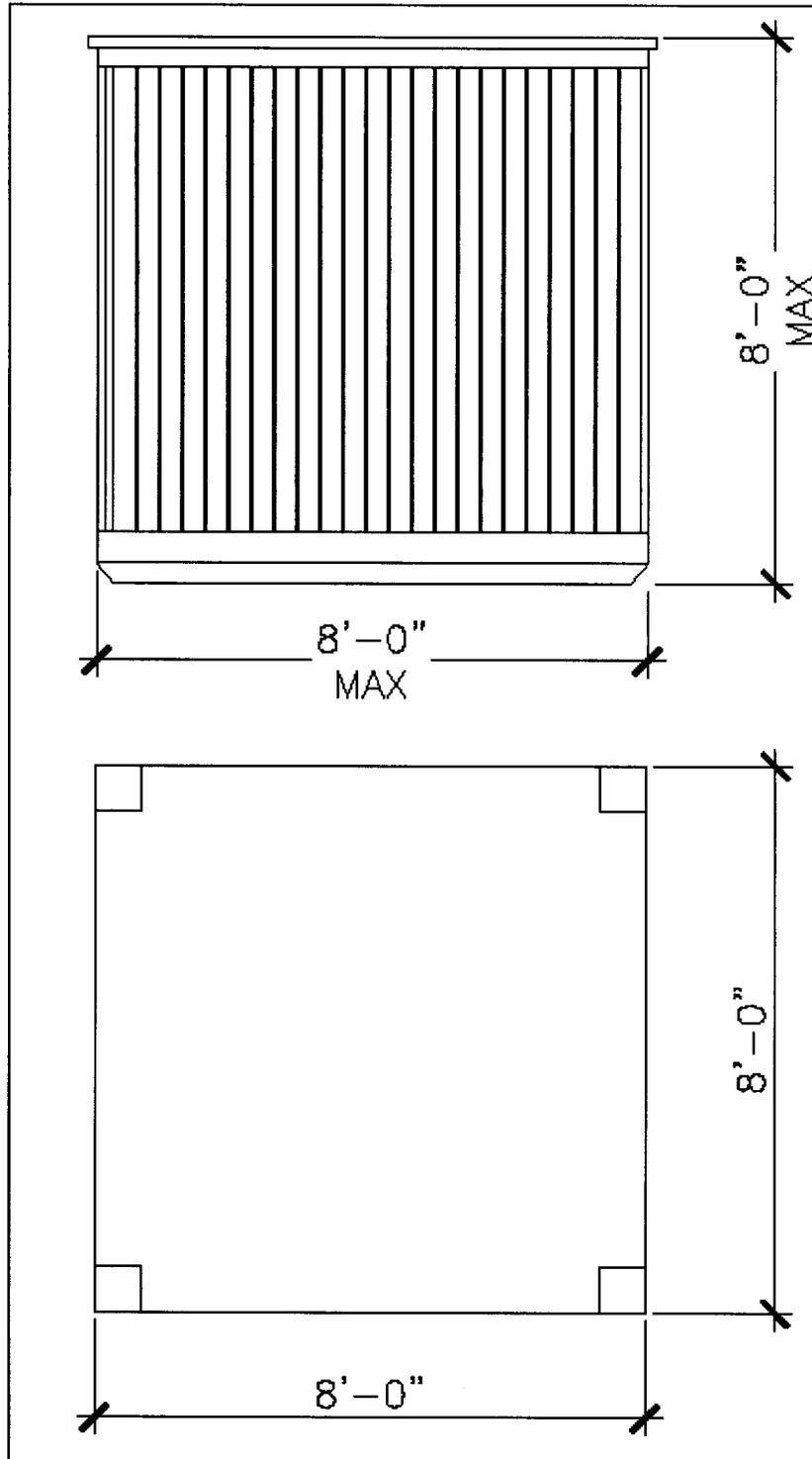
Exhibit 2

BEACH CONCESSION DESIGN GUIDELINES

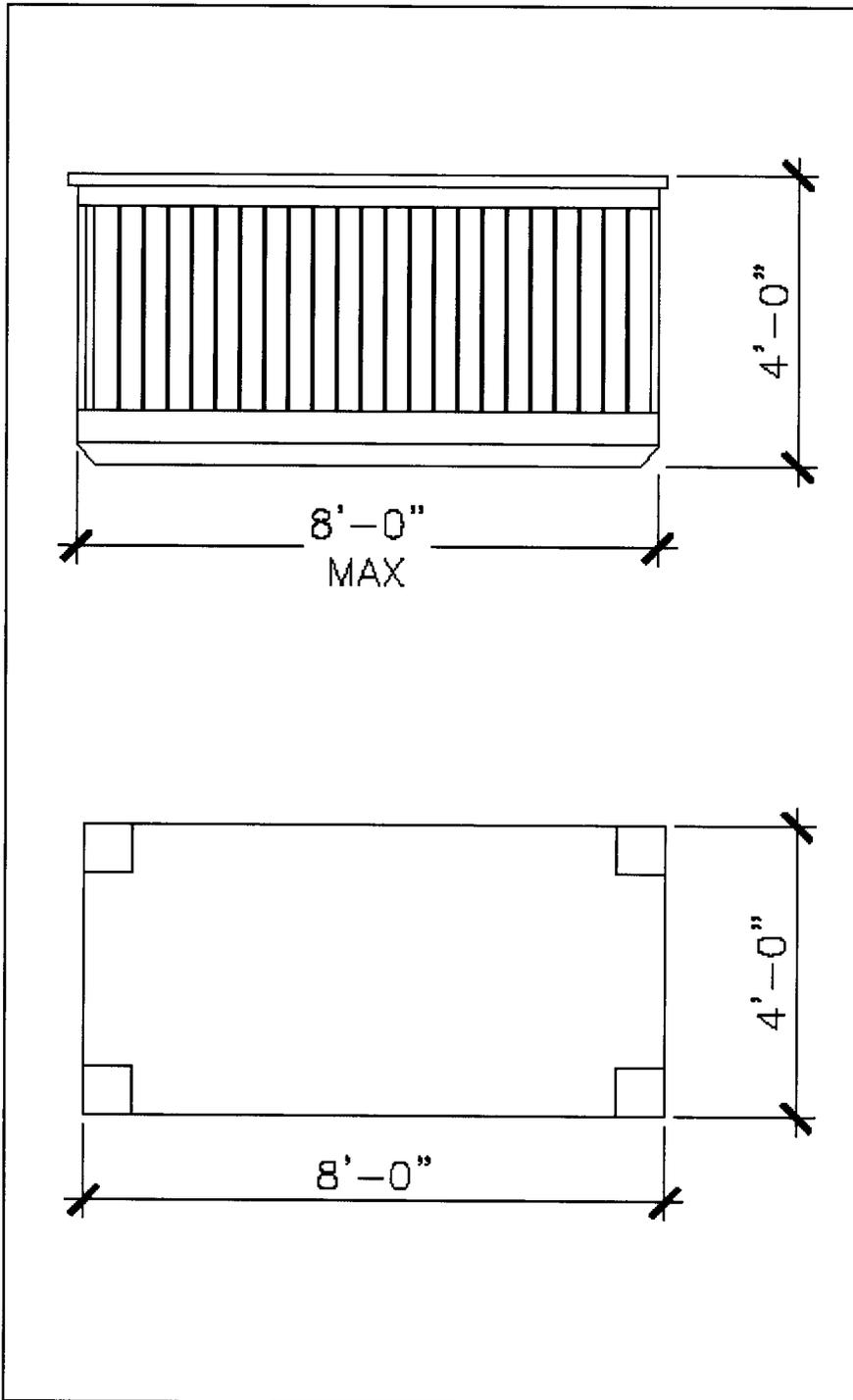
Concession Hut



Large Storage Box



Small Storage Box



1. BEACH CONCESSION DESIGN STANDARDS

a. Storage Boxes

- i. Storage Boxes shall be equipped to be fully mobile via trailer or other towing mechanism incorporated internally, for immediate removal from the beach upon demand by the City, or in cases of mandatory emergency evacuation. Skids shall not be used if the Storage Boxes are to be towed.
- ii. Plans for Concession Huts and Storage Boxes shall include accurate dimensions and scale.
- iii. Storage Boxes shall be designed for the horizontal storage of chaise lounge pads, umbrellas, sun canopies, daybeds, and similar items and shall not exceed a maximum size of eight feet (8'-0") in length, eight feet (8'-0") in width and an overall height of eight feet (8'-0") above the sand.
- iv. Storage Boxes shall be simply designed, free of adornment and embellishment, and detailed in a manner appropriate to the unique beach environment inclusive of construction materials and finishes and shall be painted in a neutral or white color with or without an accent trim color, and shall be subject to the review and approval of Design Review staff.
- v. No signage shall be permitted on storage facilities, except a prominently displayed plaque measuring twelve inches by twelve inches (12" x 12"), stating "BEACH OPEN TO THE PUBLIC" and the applicable rates for Concessionaire's services, as well as a discreetly displayed plaque measuring four inches by six inches (4" x 6"), identifying the Concessionaire's name, address and telephone number.
- vi. The size of all of the Storage Boxes shall be included towards the overall percentage (%) allowed within the Workable Area.

b. Concession Huts

- i. Concession Huts shall be for the rental of beach equipment, and/or watersports, and/or the sale or distribution of food and/or beverages (non-alcoholic beverages only).
- ii. Concession Huts shall have a maximum floor area of one-hundred (100) square feet, excluding any platform, with exterior dimensions not to exceed nine feet (9'-0") in height from the sand to the eave line (i.e., the intersection of the roof and the exterior walls).
- iii. Any architectural projections above the eave line may not exceed twelve feet (12'-0") in height from the sand (i.e., roof and roof related architectural elements), with the exception of poles or masts for signage banner/ pennants attached to the facility, which shall not exceed eighteen feet (18'-0") in height from the sand. All roofing elements shall be appropriate to and consistent with the unique beach environment and/or evocative of the upland architecture, and shall be subject to the review and approval of Design Review staff.

- iv. All Concession Huts shall be designed to preserve vistas and shall be fully open from forty-two (42") inches above the finished floor deck to a minimum eight feet (8'-0") above the sand, with the exception of structural columns or posts, and a contiguous maximum of 25% of its overall perimeter dimension.
- v. Any security side panels that may be used as shade devices shall be fully supported from the structure itself and shall not contain independent vertical support columns that extend directly to the sand or perimeter platform walkway.
- vi. A detached perimeter platform walkway, no greater than 40" in width, shall be permitted to surround the concession stand.
- vii. All building construction materials and finishes shall be appropriate to and consistent with the unique beach environment, subject to the review and approval of Design Review staff.
- viii. All Concession Huts shall be designed so as to facilitate their immediate removal from the beach at the end of each day, or removal upon demand by the City.
- ix. Signage shall consist of only a fabric banner/ pennants only, which may be attached either to a single mast or span between two (2) poles which are directly attached to the structure itself. The size of the banner/ pennant shall not exceed ten (10) square feet. The overall dimensions, wording, color, placement, design, and mounting systems for said banner/ pennant shall be subject to the review and approval of Design Review staff. The wording on the banner shall be generally limited to the name of the Upland Owner Concessionaire or the primary establishment service.
- x. Exterior surface colors and finishes shall be appropriate to the design of the structure, as well as the surrounding beach environment, subject to the review and approval of Design Review staff.
- xi. The size of the Concession Huts shall be included in the overall percentage (%) allowed within the Workable Area.
- xii. Towel bins, not to exceed 42" in height, may be permitted adjacent to the Concession Huts for the containment of disposed towels. Such bins shall be of a wood finish and painted white to differentiate the bins from trash receptacles.

c. General Restrictions

- i. Umbrella Signage: shall be restricted to the valance area with letters no more than 3" in height and copy limited to the name of the upland property (e.g. hotel name).
- ii. Sun Canopies: shall be restricted to the area west of the lifeguard stands and shall not exceed 4'-0" in height above the sand.
- iii. Seating areas inclusive of tables and chairs shall not be permitted in or around any of the beachfront structures, with the exception of chairs for the use of guardians of children in the children's sand play areas and for

the use of the operator to any watersport activities.

- iv. Small stacking side tables with low-lying profiles, no greater than 16" in height, associated with the distribution of food and/or beverages shall be permitted and shall be contained in the Storage Boxes at day's end.
 - v. Children's sand play areas shall remain free of structures with the exception of shade umbrellas and chairs for the use of guardians.
 - vi. In no instance shall serving trays, coolers, boxes, or other devices or objects remain stacked or stored outside of a storage facility and visible from any vantage point on the beach, at any time.
 - vii. All battery powered and mechanical equipment shall be concealed to the greatest extent possible and not exposed or remain on vehicular trailer.
 - viii. All beach furniture shall be subject to the approval of Design Review staff.
- d. The State of Florida Department of Environmental Protection reserves the right to review and permit all structures, including Concession Huts and Storage Boxes, pursuant to Section 161.56 of the Florida Statutes.

Exhibit 3

BEACHFRONT CONCESSION APPLICATION

APPLICATION INFORMATION FOR BEACHFRONT CONCESSION OPERATIONS

All Upland Owner Concessionaire applicants are required to obtain written City authorization (Letter Agreement), City Business Tax Receipt(s), Planning Department design approval, and any other authorization and/or permit required from the City, in addition to meeting any other County, State, or Federal requirements.

All authorizations and/or permits to operate beachfront concessions are being granted on a revocable basis. The City may, for its convenience, and at its sole discretion and without cause, terminate any authorization and/or permit at any time by giving thirty (30) days written notice of such termination.

All Beachfront Concession Permits are subject to an annual upland fee. The annual upland fee for fiscal year 2015/16 consists of **twenty one dollars (\$21.00) per upland unit**, plus annual increases based on the Consumer Price Index (CPI), with a maximum of **fifteen thousand dollars (\$15,000) per upland property**, plus annual increases based on the Consumer Price Index (CPI), and will be required for each concession location, plus any applicable taxes. All tax receipts and upland fees shall be due and payable prior to October 1st of each year thereafter.

City tax receipts for each type of activity requested and approved must be obtained prior to beginning any beachfront concession operation. The available categories and fiscal year 2015/16 fees are listed below. The fees shall be increased annually based on the Consumer Price Index (CPI).

Beach Equipment\$734.00 per year

Beach Equipment: beach chairs, chair pads, umbrellas, sun canopies

Waterside Equipment: snorkeling equipment (e.g. masks, fins, snorkels), personal floatation devices (e.g. rafts, donuts, water wings, noodles, boogie board); and miscellaneous beach toys (e.g. beach ball, bucket/shovel/rake, kadima paddles)

Food and Beverage\$734.00 per year

Watersport (only for those with existing City channels)..... \$734.00 per year

APPLICATION REQUIREMENTS

Enclosed herewith is a copy of the most current *Rules and Regulations for Beachfront Concession Operations* and *Application for Beachfront Concession Operations* which must be submitted and approved prior to the operation of any beachfront concession. Carefully review the documents and familiarize yourself with their contents.

Please ensure that:

- 1) All required signatures are obtained and notarized.
- 2) Original certificate(s) of insurance is (are) provided.
- 3) Evacuation Plan is fully completed.
- 4) Operational Plan is fully completed, including the number of chairs, equipment, etc. which you are requesting to place on the beach.
- 5) Beachfront concession layout (drawing) of your operation, including the dimensions of the beachfront area that you intend to use, is specific.
- 6) All approvals required by the Planning Department (Design Review Process) are provided.
- 7) In the event there is an existing authorized and properly licensed watersport operation and applicant desires to continue operating said service, a new authorization will be subject to the City's issuance of a letter agreement and respective tax receipts to operate same.

Please submit all applications to:

City of Miami Beach
Office of Real Estate
1755 Meridian Avenue, Suite 300
Miami Beach, Florida 33139

Once your application is reviewed and approved, a letter agreement will be forwarded to you for execution. Once said letter agreement is executed and returned to the City, final authorization will be granted and you may apply for your business tax receipt(s).

Please be advised that operation of a beachfront concession without proper authorization and/or permit, including but not limited to: letter agreement(s), business tax receipt(s), insurance, approved evacuation and operation plans, and Planning Department permits and/or authorizations which may be required, will not be permitted.

ANY BEACH CONCESSION FOUND TO BE OPERATING WITHOUT CITY AUTHORIZATION SHALL BE CONSIDERED TO BE TRESPASSING AND WILL BE REMOVED FROM THE BEACH AND ANY EQUIPMENT WILL BE CONFISCATED AT CONCESSIONAIRE'S SOLE EXPENSE.

If you have any questions please do not hesitate to contact the Office of Real Estate at (305) 673-7193.

**APPLICATION FOR
BEACHFRONT CONCESSION OPERATIONS**
(as amended through May 11, 2016)

SECTION 1 LOCATION OF CONCESSION REQUESTED

Address: _____

Name of Upland Owner: _____
(name of Hotel, Condominium, Apartment Building, etc.)

SECTION 2 TYPE OF CONCESSION(S) REQUESTED

- Food and non-alcoholic beverages (cooking/heating prohibited*)
** Cooking and heating will only be permitted at those facilities/locations where cooking and heating activities were being conducted and possessed a valid/current business tax receipt from the City on September 5, 2001.*
- Beach equipment rentals (beach chairs, chair pads, umbrellas, sun canopies, snorkeling equipment, personal floatation devices and miscellaneous beach toys)
- Watersports

SECTION 3 APPLICANT INFORMATION

Name of Upland Owner Concessionaire: _____
(i.e.: Corporation, Partnership, LLC, other)

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Principal Business Address: _____

Telephone No.: _____ Facsimile No.: _____

Email.: _____

CHECK ONE: Corporation Partnership LLC Other

Section 4 on the following page must be fully completed.

SECTION 4 CORPORATE INFORMATION

Corporate Name: _____

Date of Incorporation: _____

State Incorporated: _____

**If Foreign, Date of Registration
with Florida Secretary of State:** _____

Name of Registered Agent: _____

Address of Registered Agent: _____

President's Name: _____

Vice-President's Name: _____

Treasurer's Name: _____

Board of Directors:

SECTION 5 OPERATOR INFORMATION

Name of Third Party Concession Operator: _____

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Principal Business Address: _____

Telephone No.: _____ **Facsimile No.:** _____

Email: _____

CHECK ONE: **Corporation** **Partnership** **LLC** **Other**

SECTION 6 RATE AND FEE SCHEDULES

The base fee of \$21.00 per upland unit, with a maximum of \$15,000 per upland property, will be required of each concession location and are subject to adjustment and these fees shall be due and payable in advance prior to issuance of a Concession Permit, and prior to October 1, of each year thereafter.

UPLAND OWNER CONCESSIONAIRE
ACKNOWLEDGEMENT AND AUTHORIZATION

I have read and understand the attached Rules and Regulations for Beachfront Concession Operations, and agree to abide and be bound by the terms and conditions contained herein. I further understand that as Upland Owner Concessionaire, I will be responsible for any financial obligations associated with the concession operation, including any required occupational licenses, permits, fees, and/or any fines, penalties, and the satisfaction of any liens, which are imposed related to this beachfront concession. Furthermore, I affirm that all of the information I have provided herein is true and correct.

Address of Upland Property: _____
(address of Hotel, Condominium, Apartment Building, etc.)

Name of Upland Property: _____
(name of Hotel, Condominium, Apartment Building, etc.)

Name of Upland Owner: _____
(name of Corporation, Partnership, LLC, other)

Name and Title of Upland Owner's Authorized Representative:

(please print)

Signature of Authorized Upland Owner's Representative

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE)

The foregoing instrument was sworn to, subscribed, and acknowledged, before me this _____ day of _____, 20____, by _____, who is either personally known to the undersigned authority or has produced _____ as identification, and who did/did not take an oath.

(Signature of Notary)

(affix seal here)

OPERATIONAL PLAN

Please describe your proposed operation including specific numbers and types of equipment (attach a photograph, copy of brochures or other descriptive materials for equipment), number of personnel, and hours of operation (NOTE: The concession is to be open and operating seven days a week, weather permitting). If a water recreational concession (only for currently existing locations) is requested, attach a sketch illustrating the placement of the equipment as required in the Rules and Regulations. Information should also include the type and number of beach chairs, type and number of umbrellas, type and number of watercraft, etc.)

YOUR AUTHORIZATION WILL BE GRANTED EXCLUSIVELY FOR THE ITEMS AND EQUIPMENT LISTED HEREIN. PLEASE BE SPECIFIC.

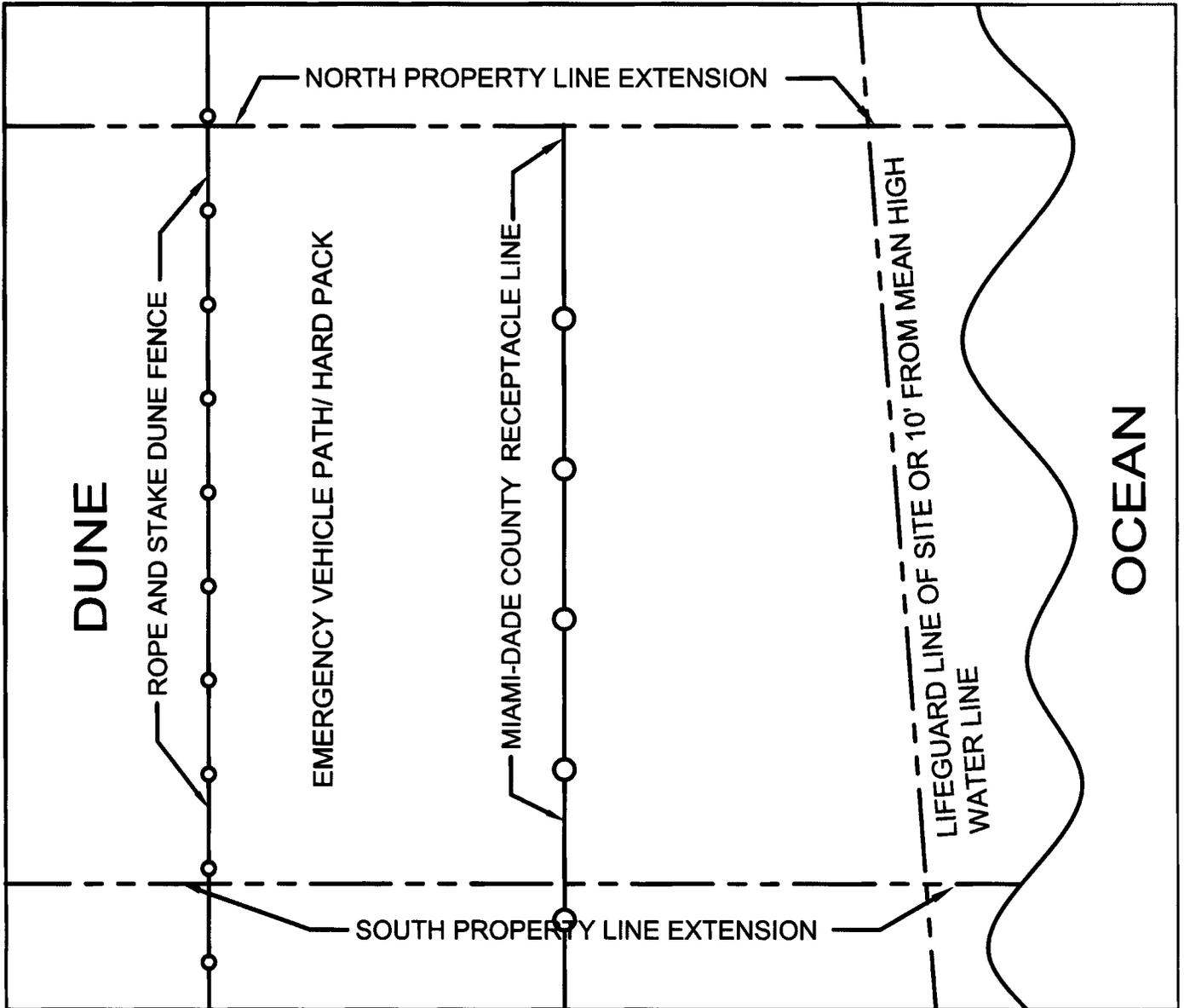
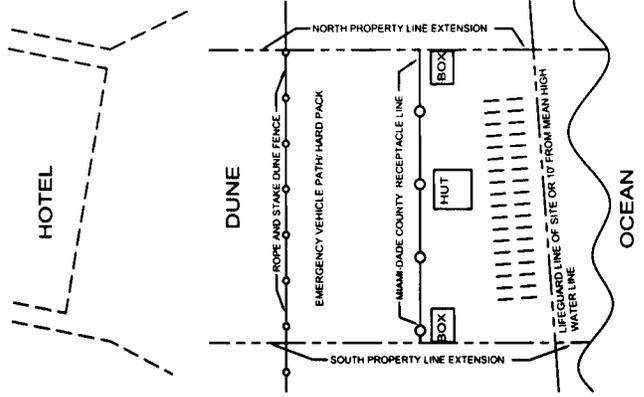
<u>Quantity</u>	<u>Type</u>
Chairs: _____	_____
Umbrellas: _____	_____
Cabanas: _____	_____
Storage Huts: _____	_____
Storage Boxes: _____	_____
Food//Beverage Trailers: _____	_____
Concession Huts: _____	_____
Other Equipment: _____	_____

Number of Personnel _____

Hours of Operation: _____

BEACHFRONT CONCESSION LAYOUT

In the space provided below draw the specific number of items and equipment as listed on the Operational Plan. (See sample to the right)



EVACUATION PLAN

Please describe in full detail your evacuation plan in case of a natural disaster such as a hurricane. All your facilities and/or equipment must be off the beach and safely stored at a private, off-site location within one (1) hour's notice given by the City and/or within eight (8) hours of the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management. Identify the storage space, and its location, that you would use in this type of situation.

**Beachfront Concessionaire
VEHICLE INFORMATION SHEET**

Name of Upland Owner / Concessionaire and Third Party Concession Operator:

Address of Upland Owner / Concessionaire and Third Party Concession Operator:

_____, Miami Beach, Florida, 331____

_____, Florida, 33____

Check if no vehicle will be used for this concession

Specify type of vehicle - **Motor Vehicle or Small Off-Road Vehicle** - requested to be used by Upland Owner / Concessionaire and Third Party Concession Operator (hereafter referred to as Vehicle).

Vehicle 1:

Vehicle Type: _____

Vehicle Make: _____

Vehicle Model: _____

Vehicle Year: _____

Vehicle Color: _____

Vehicle Tag: _____

Location of nearest Beach Access Point: _____

Vehicle 2 (If Applicable):

Vehicle Type: _____

Vehicle Make: _____

Vehicle Model: _____

Vehicle Year: _____

Vehicle Color: _____

Vehicle Tag: _____

Location of nearest Beach Access Point: _____

Vehicle 3 (If Applicable):

Vehicle Type: _____

Vehicle Make: _____

Vehicle Model: _____

Vehicle Year: _____

Vehicle Color: _____

Vehicle Tag: _____

Location of nearest Beach Access Point: _____

ONLY THE ABOVE IDENTIFIED VEHICLES WILL BE DEEMED APPROVED AND CONCESSIONAIRE SHALL NOT USE ANY ADDITIONAL VEHICLE(S) ON THE BEACH. VIOLATION OF THIS REQUIREMENT MAY RESULT IN THE REVOCATION, SUSPENSION AND/OR TERMINATION OF CONCESSIONAIRE'S AGREEMENT.

Signature of Authorized Upland Owner's Representative

Date

Exhibit 4

SAFE DRIVING AGREEMENT

(Full Corporate Name of Direct City Concession Operator or
Upland Owner Concessionaire, or Third Party Concession Operator)

and

(Full Name of Driver)

The individual named above ("Driver") has been offered employment or continued employment by the company named above ("Concessionaire"). In that employment capacity, Driver's duties, now and/or from time to time in the future, may include driving vehicles on beaches located in the City of Miami Beach, Florida.

Driver hereby accepts, and agrees to comply with, the following rules for his or her driving duties:

- (1) Speed. Motor Vehicles shall not be driven faster than 5 M.P.H.
- (2) Driving Area. Motor Vehicles shall be driven only on the hard-packed sand area (between the dunes and the trash cans).
- (3) Minimal Driving. Driving on the beach shall be kept to a minimum.
- (4) No Driving between Concession Areas. Motor Vehicles shall not be driven from one Concession Area to another.
- (5) Due Care and Caution. Due care and caution must be utilized at all times while driving any Motor Vehicle, and any Trailer attached thereto, on the beach.
- (6) Headlights and Rear Flashers. Prior to entering the beach, and at all times while driving on the beach, the Driver will turn on the Motor Vehicle's headlights and front and rear flashers and the Trailer's rear flashers to the extent that the Motor Vehicle or Trailer is so equipped.
- (7) Windows. Both the passenger and driver's side front windows of the Motor Vehicle (if equipped with windows) shall be rolled down while operating the Motor Vehicle on the beach.
- (8) Limited Area for Driving. All Motor Vehicles, with or without Trailers, shall stay west of the garbage can line on the hard packed sand when travelling north and south, and shall travel only north or south on the beach except to the limited extent necessary for brief periods to deploy, service, or remove anything necessary for the Concessionaire to conduct its operations.
- (9) Cones. During any deployment, service, or removal operation, the Driver will place the Concessionaire-supplied orange cones as follows: at least four cones on the northernmost boundary, and at least four cones on the southernmost boundary, of the projected path (from hard-packed sand to the shore line) of the Motor Vehicle to create a clear non-obstructed path perpendicular to the shoreline, of no less than twenty-five feet (25') in width (when measured from north to south).

(10) Safety Measures during Deployment, Service, or Removal. During any deployment, service, or removal operation, the Driver and a supervising Concessionaire employee must independently inspect the Motor Vehicle's perimeter, surrounding area, and path (once marked) before starting the engine, to assure a clear path of ingress to the shoreline or egress to the hard packed sand and only then, proceed with the respective operation with extreme caution to ensure the safety of all beachfront patrons and persons and property on the beach.

(11) Use of Cell Phones and Other Devices Prohibited. Use of a cellular phone, or any other electronic, electric, or battery-powered device, by the Driver while the Motor Vehicle is in motion is prohibited. The Motor Vehicle's gear shift must be placed in the "park" position and the emergency break engaged prior to any use of a cellular telephone or any other electronic, electric, or battery-powered Device by the Driver.

(12) Both Hands on the Wheel. The Driver shall drive with both hands on the steering wheel at all times.

(13) Personal Vehicles Prohibited. The Driver will not drive any personal vehicle on the beach at any time.

(14) Parking Vehicles and Unattended Vehicles Prohibited. The Driver will not park or leave unattended on the beach any Motor Vehicle or Trailer at any time or for any reason, except that golf carts and ATVs are permitted to park immediately east of the dune for no more than 30 minutes; only during normal business hours of the Concessionaire; and only to the extent that the emergency vehicle path on the hard pack of the beach remains unobstructed.

(15) Valid Chauffeur's or Driver's License. I hold a valid and effective Florida chauffeur's or driver's license (whichever the law may require) which is not now suspended or revoked, and a true copy of which is attached to this Agreement. I will maintain that license continuously in that same status throughout the course of my employment.

(16) Impaired Driving Prohibited. I will not drive any Motor Vehicle while under the influence of alcohol, drugs, or any substance which may impair my ability to drive safely. I will immediately advise the Concessionaire of, and will furnish the Concessionaire with, a hard copy of any ticket, summons, citation, or similar document which alleges any such driving irrespective of when or where it occurs.

(17) Accidents. I will immediately advise the Concessionaire of any accident which occurs, and will furnish the Concessionaire with any requested documents, concerning any accident which occurs (A) while I am driving any Motor Vehicle for the Concessionaire, or (B) while I am driving any vehicle when I am not working for the Concessionaire. I have not been advised of any claim, and I am not a party to any lawsuit, arising out of or relating to either type of accident.

(18) Training Course. I have successfully completed the Concessionaire's one-hour training course on the operation of a Motor Vehicle in compliance with this Safe Driving Agreement. The training included actual operation by me of the type of Motor Vehicle which I am expected to drive.

Date of Driver's Signature

Driver's Signature

Typed or Printed Driver's Name

CERTIFICATION BY CONCESSIONAIRE

I am the _____ of the above-named Concessionaire, and I am authorized by it to execute this Certification on behalf of said Concessionaire. The Concessionaire certifies as follows:

- (1) The above Driver has successfully completed our one-hour training course on the operation of a Motor Vehicle in compliance with the above Safe Driving Agreement. The training included actual operation by the Driver of the type of Motor Vehicle which he or she is expected to drive.
- (2) The Concessionaire has completed a records check on the Driver and found nothing which indicates any tendency of the Driver to drive unsafely.

Date of Concessionaire's Signature

Typed or Printed Full Corporate Name of
Concessionaire

By _____
Signature of Concessionaire's Authorized
Officer or Employee

Typed or Printed Name of Signer

[copy of Driver's License]

Exhibit 5

BEACH CONCESSION INSURANCE REQUIREMENTS

The following is required by the City of Miami Beach with respect to the beachfront concession operations, pursuant to Rule 4 of the preceding Rules and Regulations for Beachfront Concession Operations:

Each Direct City Concession Operator, Upland Owner Concessionaire, or Third Party Concession Operator shall furnish to the City of Miami Beach Risk Management Department a Certificate of Insurance which complies in all respects with the said Rule 4 and with the following:

1. Commercial General Liability limits \$1,000,000.
2. The City of Miami Beach must be listed as a CERTIFICATE HOLDER as follows:

City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139
3. The City of Miami Beach must be named as an ADDITIONAL INSURED.
The following language must be included under the section of Description of Operations/Locations/Vehicles/Special Items:
The City of Miami Beach is included as an additional insured with respect to the beachfront concession operations.
4. Worker's Compensation
Companies that employ more than three (3) employees must provide proof of Worker's Compensation insurance; otherwise, please provide a letter on company letterhead stating that you have three (3) or less employees.
5. All policies must be issued by companies authorized to do business in Florida with a Best Key rating of B+VI or better.
6. Each Certificate of Insurance delivered to the City must contain the following provision: A copy of any notice of cancellation, or of any reduction in scope or amount of coverage, shall be sent to the City of Miami Beach at the same time that it is sent to the named insured.

If you have any questions, please feel free to contact the City of Miami Beach Risk Management Department at (305) 673-7014 or the Office of Real Estate at (305) 673-7193.

Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Accepting The Recommendation Of The Neighborhood/Community Affairs Committee To Have The Communications Department Create An Educational Piece On The City's Position With Regard To Illegal Short-term Rentals, Initiate Contact With Realtors And Post On Social Media.

Key Intended Outcome Supported:

Ensure Compliance With Code Within Reasonable Time Frame.

Item Summary/Recommendation:

At the April 13, 2016 Commission meeting, the Discussion and Action Plan Related to Combatting Illegal Short-term Rentals was referred to the Neighborhood/Community Affairs Committee for further discussion.

At its meeting on April 15, 2016, the Neighborhood/Community Affairs Committee voted by acclamation to recommend having the Communications Department create an educational piece on the City's position regarding illegal Short-term rentals and initiate contact with realtors and post on social media.

RECOMMENDATION

The Administration recommends adopting the resolution.

Advisory Board Recommendation:

The Administration submitted this matter to the Neighborhood/Community Affairs Committee (NCAC) at its April 15, 2016 meeting, and the NCAC passed a motion to move the item to the full commission to have the Communications Department create an educational piece on the City's position regarding illegal Short-term rentals, initiate contact with realtors and post on social media.

Financial Information:

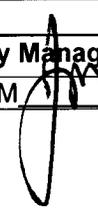
Source of Funds:	Amount	Account	Approved
1	n/a		
2			
Total			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Hernan D. Cardeno, Code Compliance

Sign-Offs:

Department Director	Assistant City Manager	City Manager
HDC 	SMT 	JLM 

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MIAMI BEACH

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

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy Morales, City Manager

DATE: May 11, 2016

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE NEIGHBORHOOD/COMMUNITY AFFAIRS COMMITTEE TO HAVE THE COMMUNICATIONS DEPARTMENT CREATE AN EDUCATIONAL PIECE ON THE CITY'S POSITION REGARDING ILLEGAL SHORT-TERM RENTALS, INITIATE CONTACT WITH REALTORS AND POST ON SOCIAL MEDIA.**

ADMINISTRATION RECOMMENDATION

The Administration recommends adopting the Resolution.

BACKGROUND

At the April 13, 2016 Commission meeting, the Discussion and Action Plan Related to Combatting Illegal Short-term Rentals was referred to the Neighborhood/Community Affairs Committee for further discussion.

At its meeting on April 15, 2016, the Neighborhood/Community Affairs Committee voted by acclamation to recommend having the Communications Department create an educational piece on the City's position regarding illegal short-term rentals, initiate contact with realtors and post on social media.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Resolution.

SMT
JM/SMT/HDC/RSA 

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