



North Bay Village

Administrative Offices

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OFFICIAL AGENDA

NORTH BAY VILLAGE PLANNING & ZONING BOARD MEETING

**VILLAGE HALL
1666 KENNEDY CAUSEWAY, #101
NORTH BAY VILLAGE, FL 33141**

TUESDAY

JUNE 2, 2015 – 7:30 P.M.

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE PLANNING & ZONING BOARD. SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

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1. **CALL TO ORDER**
 2. **PLEDGE OF ALLEGIANCE, ROLL CALL**
 3. **REVIEW AND DISCUSSION OF REVISIONS TO THE DRAFT LAND DEVELOPMENT REGULATIONS**
 4. **ADJOURNMENT**

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Eddie Lim

CHAPTER I, GENERAL

§ 1.1 - Title.

This code shall be entitled the North Bay Village Land Development Code and shall may also be herein referred to as the "~~code~~ LDC."

§ 1.2 - Authority.

The North Bay Village Land Development Code is enacted pursuant to F.S. ch. 163, Part II, and F.S. ch. 125.

§ 1.3 - Findings.

- A. According to Chapter 163, Florida Statutes, each local government in Florida must enact a unified land development code which is consistent with the Comprehensive Plan and implements the same.
- B. The ~~code~~ Land Development Code must contain all of the village's land development regulations.
- C. All proposed developments within North Bay Village must be reviewed to ensure compliance with the village's Comprehensive Plan and requirements of this ~~code~~ Land Development Code.

§ 1.4 - Intent.

The primary intent of this code is to achieve the following:

- A. Guiding and accomplishing coordinated, adjusted, and harmonious development in accordance with the village's existing and future needs.
- B. Protecting, promoting, and improving the public health, safety, comfort, order, convenience, and general welfare.
- C. Protecting the character and maintaining the stability of the residential areas.
- D. Directing and controlling through the establishment of performance standards, the type, density, intensity, and distribution of development.

§ 1.5 – Interpretation and conflict.

A. *Interpretation.*

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, order, convenience, and general welfare of the village.

B. *Conflict.*

It is not intended by these regulations to interfere with, abrogate, or annul any easements, covenants, or other agreement between parties; however, where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces, yards, lot areas than are imposed or required by other ordinances, rules, regulations, easements, covenants, or agreements, the provisions of these regulations shall govern.

§ 1.6 - Validity.

If any section, paragraph, subdivision, clause, phrase, or provision of these regulations are adjudged invalid or held unconstitutional, this shall not affect the validity of these regulations as a whole, or any part or provisions thereof, other than the part so decided to be invalid or unconstitutional.

§ 1.7 - Repeal clause.

All county ordinances, resolutions, or special laws applying only to the village; any general laws which the Village Commission is authorized by the Charter to supersede, nullify, modify, or amend; or any part of any such ordinance, resolution, or law in conflict with any provision of this ~~chapter~~ LDC is hereby repealed.

CHAPTER II, RELATIONSHIP TO THE COMPREHENSIVE PLAN

§ 2.1 - Purpose and intent.

The Future Land Use Element of the ~~1987 adopted~~ Comprehensive Plan for North Bay Village describes the future land use categories within districts for the village. These land use ~~districts~~ categories are illustrated on the future land use map in the Comprehensive Plan. All future development or redevelopment of property within North Bay Village must be consistent with the goals, objectives, and policies expressed in the adopted Comprehensive Plan and with the future land use map. The Land Development Code is intended to implement the Comprehensive Plan. In the event of a conflict between the Comprehensive Plan and the Land Development Code, or any other village regulation, the provisions of the Comprehensive Plan shall take precedence. ~~The following section contains a description of the district regulations incorporating the provisions of the future land use element with the applicable parts of chapter 152 of the North Bay Village Code of Ordinances. The result becomes a single, integrated description of the city's land use districts and the uses and criteria permitted within these districts. Thus, all future development or redevelopment of property within the city shall be accomplished in compliance with the goals, objectives, and policies expressed in the adopted Comprehensive Plan.~~

§ 2.2 – Relationship between future land use categories and zoning districts.

The future land use categories districts and classifications defined in the future land use element and delineated on the future land use map ~~1993 and 1998 land use plans~~ in said element shall be the determinants of permissible activities on any parcel of land within the village. ~~(See figures 3.1 and 3.2.)~~ They are established to regulate and restrict the location of commercial, public, and semi-public uses, and residences, and the location of buildings erected or altered for specific uses to regulate or limit population density, and intensity of use of lot areas. The zoning districts and associated regulatory provisions identified in the Land Development Code are intended to implement the goals, objectives and policies and Future Land Use Map in the Comprehensive Plan. In the event of a conflict between a provision in the Comprehensive Plan and any provision regulating development within a zoning district, the provisions of the Comprehensive Plan shall take precedence

A. *Residential ~~district~~ future land use categories.*

There are three residential future land use categories in the Village's Comprehensive Plan that are applied to lands throughout the village. Lands located within these categories are to be devoted to ~~This district encompasses all areas with~~ dwelling units used or intended to be used for permanent housing. The residential land use category is further subdivided into three subdistricts based on density.

1. The single-family residential category ~~or low density district~~ allows a density of up to six dwelling units per acre. Zoning districts RS-1 and RS-2 fall under this land use category.
2. The medium density multi-family residential category ~~district~~ allows for residential density from seven (7) up to 40 dwelling units per acre. ~~(Zoning district RM-40)~~ RM 40 is the only zoning district consistent with this future land use category.
3. The high density multi-family residential ~~category~~ allows from 41 up to 70 dwelling units per acre. ~~(Zoning district RM-70)~~ RM-70 is the only zoning district consistent with this future land use category.

B. ~~Commercial district~~ future land use category.

This category district designates those areas in the village suitable for commercial development. Uses permitted include a broad range of general and professional office, retail, banking, hotel, and service establishments and high density residential development.

C. ~~Mixed-use district~~ future land use category.

The ~~mixed-use category district~~ permits a combination of retail, office, hotel, and/or residential, ~~uses.~~

Note: *This category is no longer relevant.*

D. ~~Institutional district~~ future land use category.

The purpose of this category district is to provide an area for either nonprofit or for profit institutional facilities such as religious facilities, nursing homes, and community centers or quasi-public uses, including, but not limited to religious facilities, nursing homes, community centers, public or private schools or colleges, and hospitals or clinics.

Note: *There is no zoning district that specifically implements this category. But, only non-profit or quasi-public uses similar to the above should be permitted. Some of these types of uses are listed under the current Sec. 152.098 Use Exceptions.*

E. ~~Public buildings/grounds district~~ future land use category.

This category district provides sites for public/semi-public uses such as village hall, police station, public works building, post office, and other agency facilities primarily serving the public.

Note: *There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under Sec. 152.098 Use Exceptions.*

F. ~~Educational district~~ future land use category.

This category provides sites for public schools, associated facilities, and grounds are included in this district.

Note: *There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under the current Sec. 152.098 Use Exceptions*

G. ~~Recreation and open space district~~ future land use category.

This category district includes all areas designated for public parks within the city is intended to provide for permanent public parks and open spaces for recreational use, protection of natural resources, and urban buffers.

Note: *There is no zoning district that specifically implements this category. But, only uses similar to those above should be permitted. Some of these types of uses are listed under the current Sec. 152.098 Use Exceptions. Do we want a recreational zoning district?*

H. *Marina district.*

~~This district provides sites for the location of marinas as defined in chapter 1 of this code.~~

Note: *There are no marina designations on the Future Land Use Map and dry storage is prohibited in CG zoning district.*

CHAPTER III, DEFINITIONS

CHAPTER IV, ADMINISTRATION AND ENFORCEMENT

DIVISION 1, GENERALLY

§ 4.1 - Purpose and intent.

~~This chapter sets forth the general application and review procedures for obtaining development orders and certain types of permits. It also specifies the requirements for appeal and legislative actions such as code and Comprehensive Plan amendments. The purpose and intent of this chapter is to establish general petition procedures, the process for obtaining an official interpretation of a regulation in the Land Development Code, public hearing and notice requirements, procedures for appealing decisions, enforcement of the code, penalties and remedies for violations, establish appropriate commissions, boards and administrative official, and amending the Land Development Code and Comprehensive Plan, for the effective and equitable implementation and enforcement of the Land Development Code.~~

§ 4.2 – General petition procedure.

A petition for an amendment, variance, ~~special~~ use exception, or supplement to these regulations, or for an amendment, change, or supplement to the Comprehensive Plan or district boundaries of the Zoning District Map shall be submitted to the Village Clerk by any person who owns the subject property or who has written permission of the present owner, public official, the Planning and Zoning Board, or by the Village Commission's own motion.

§ 4.3 – Procedure for obtaining an official interpretation of the Land Development Code.

Note: [This is an entirely new section)

When an individual wants an official interpretation of a regulation contained within the Land Development Code as defined in Chapter I, §1.4, or wants to determine how a regulation may be applicable to specific property within the village, the following procedures and provisions shall apply.

Written request. The individual shall submit, in writing, a completed preapplication conference request (available from the City Clerk's department), the request shall be accompanied by payment of the fee as established and set forth in Appendix F, and shall include the following information:

1. Identification of the section or sections of the Land Development Code for which an interpretation is desired.
2. An explanation of what it is that the individual finds unclear and an explanation of what, if anything, the applicant believes the section in question means.
3. If the applicant is interested in determining how the section or sections apply to or affect specific property, the following information shall be provided:
 - a. A clear representation of the specific property(ies) that is/are the subject of the inquiry including the property address.
 - b. The land area encompassed by the property and the specific dimensions of the property including a description, map or survey showing existing improvements on the property.
 - c. If the question involves whether or not a certain improvement or use is allowed on the property, or the extent, size, or number of units that may be allowed on the property, the applicant shall include a plot plan or detailed description of what he/she wishes to do on the property sufficient to allow the Building Official to make a reasoned determination as to how

the LDC affects that specific property. It shall be the building official's decision as to what constitutes adequate information for him to make a decision or interpretation.

- d. The Planning and Zoning Official shall accept the written request or inform the applicant of any additional information that may be necessary for him to issue a reasoned interpretation. The Planning and Zoning Official may subsequently request additional information from the applicant, or provide the option of meeting with the applicant
If a meeting is scheduled requiring consultation with, or attendance by, an attorney or professional consultant (e.g., planner or engineer), a deposit in the amount set forth in Appendix F (?), shall be paid at least five days prior to said meeting. The final cost of the meeting, calculated as set forth in Appendix F (?), shall be the responsibility of the applicant and shall be paid in full prior to the issuance of the written opinion.
- e. Within two weeks of accepting the completed request, or having received any additional information requested of the applicant, the Planning and Zoning Official shall issue, in writing, his opinion, supported by citations of the pertinent sections of the Land Development Code, and shall forward said opinion by U. S. Mail to the applicant.
- f. The time for the Planning and Zoning Official's response may be extended to 30 days if, in the opinion of the Planning and Zoning Official, it is necessary for him to confer with the village attorney, other village staff, or outside consultant before rendering a decision. All applicable fees shall be paid by the applicant before the Planning and Zoning Official issues his written opinion.
- g. The Planning and Zoning Official's written opinion shall be considered an official interpretation of the subject provisions of the Land Development Code.
- h. Verbal statements, interpretations, or comments made by the Planning and Zoning Official or any other representative of the village with regard to any interpretation of the Land Development Code shall not be considered official interpretations of the Land Development Code. Interested parties who make development decisions or proceed with development activity based upon such verbal information shall do so at their own risk.

§ 4.4 – Public hearing, public notice, and adoption requirements and procedures.

Note: [LDC §2.7.5(1) & (2) refer to §152.096, therefore that text is used herein.]

A. Hearings and notices.

1. Table 4.4.A.1 describes the number and type of meetings each application will require. The information in the table is presented for the purpose of assisting the village, applicants and the public in identifying public meeting and hearing requirements. In the case of conflict between the information presented in the table and the legal requirements of ~~these land development regulations~~ the Land Development Code, the Village Code of Ordinances or Florida Statutes (collectively referred to as legal requirements), the legal requirements and not the table shall control.
2. All applications involving the following shall be considered at public hearings before the Planning and Zoning Board and the Village Commission:
 - a. Amendment, change, or supplement to the Comprehensive Plan;
 - b. Amendments to the LDRs Land Development Code;
 - c. Amendments to boundaries of the Zoning District Map;

- d. Variances;
 - e. ~~Special~~ use exceptions and other applications for development approval;
 - f. Appeals of an administrative decision
3. Amendments to the Future Land Use Map, Zoning Map, or which change the actual list of permitted uses, conditional uses, use exceptions, or prohibited uses in a zoning district or future land use category shall be adopted by ordinance, and the notice and hearing requirements shall be as required by F.S. §166.041(3)(a) and (c).
 4. Amendments to the Future Land Use Map or Zoning Map which change the actual map designation for a parcel or parcels of land containing ten contiguous acres or less notice shall be provided in the following manner:
 - a. Notice of the public hearing on the proposed change shall be given to property owners at least thirty (30) days prior to the date set for the public hearing as required by F.S. 166.041(3)(c)1.
 - b. As a courtesy notice, a written announcement of a public hearing shall be mailed at least ten (10) days prior to the date of the hearing to all property owners and residents abutting the subject property or within 300 feet of the perimeter of the property. Failure to mail this courtesy notice shall not affect the validity of the final action.
 - c. The list of property owners shall be certified by the Village Clerk. The Village Clerk shall certify that the petition file is complete before the hearing is legally advertised.
 5. All public hearings held before the Planning and Zoning Board and/or Village Commission shall be noticed by publishing, at least ten (10) days prior to the hearing, an advertisement showing the date, time, place, and nature of the hearing.
 6. Notice of the date, time, place and nature of the hearing shall also be posted conspicuously at least ten (10) days prior to the hearing on any property for which a petition for a variance, ~~special~~ use exception, zoning district or future land use boundary change has been submitted.
 7. For amendments that require two (2) public hearings by the Village Commission, the second public hearing shall be advertised at least ten (10) days before the public hearing.

**Table 4.4.A.1
Public Hearings**

Development approval	Planning and Zoning Board	Village Commission
Amendments to Comprehensive Plan		
Small scale development map amendment	H	H
All other amendments		
Transmittal stage	H	H
Adoption stage		2H
Amendments to the Land Development Code Regulations		
Zoning district map	H	2H
Text amendment	H	2H
Others		
Minor Development ⁽¹⁾		
Major Development ⁽²⁾	H	H
Variances	H	H
Nonuse exceptions (LDC Tbl. 2-1)/Non-use variances (152.0074) Non-hardship variance for single-family properties	H	H
Special Use exceptions	H	H
Appeals of an administrative decision	H	H
H = Public hearing ⁽¹⁾ Three through six dwelling units or from 300 to 10,000 square feet of commercial use ⁽²⁾ Seven or more dwelling units or more than 10,000 square feet of commercial use.		

B. Method of adoption.

1. The following shall be adopted by ordinance:
 - a. Amendment, change, or supplement to the Comprehensive Plan;
 - b. Amendments to the Land Development Code LDRs;
 - c. Amendments to the Zoning Map and to the actual list of permitted, conditions, or prohibited uses within a zoning category.
2. The following shall be adopted by resolution:
 - a. Variances;
 - b. Use exceptions and other applications for development approval;
 - c. Appeals of an administrative decision.

C. Testimony.

Witnesses desiring to make a statement of fact at a public hearing shall be sworn and give testimony under oath; otherwise, statements shall be considered a matter of opinion only. The Planning and Zoning Board or Village Commission may require attendance of witnesses at a public hearing.

§ 4.5 Procedure for appealing an administrative decision.

- A. Any person aggrieved by an order, requirement, decision, or determination relative to these regulations by an administrative official may petition the Planning and Zoning Board for relief. The petition shall be in a form approved by the Village Attorney, and all properties described in one application must be contiguous.
- B. A grant of relief on appeals of administration decisions shall avoid spot zoning.
- C. The Village Commission may, after a public hearing, grant relief on appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the interpretation of any portion of these regulations.

§ 4.6 Exhaustion of remedies; court review.

- A. No person aggrieved by any zoning resolution order, requirement, decision, or determination of an administrative official or by any decision of the Planning and Zoning Board may apply to the court for relief unless he has first exhausted the remedies provided for herein and taken all available steps provided in this subchapter. It is the intention of the Village Commission that all steps provided by this subchapter shall be taken before any application is made to the court for relief; and no application shall be made to the court for relief except from resolution adopted by the Village Commission pursuant to this subchapter.
- B. Zoning resolutions of the Village Commission shall be reviewed by the filing of a petition for writ of certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, in accordance with the procedure and within the time provided by the Florida Appellate Rules for the review of the rulings of any commission or board. Such time shall commence to run from the date the zoning resolution sought to be reviewed is transmitted to the Village Clerk. For the purposes of a certiorari the Village Clerk shall make available for public inspection and copying, the record upon which each final decision of the Village Commission is based; however, the Village Clerk shall make

a reasonable charge commensurate with the cost in the event the village is able to and does furnish copies of all or any portion of the record. Prior to certifying a copy of any record or portion thereof, the Village Clerk or her designee shall make all necessary corrections in order that the copy is a true and correct copy of the record, or those portions requested, and shall make a charge as provided.

§ 4.7 Enforcement.

- A. It shall be the duty of the Building Official, Plan Examiner, and Code Enforcement Officer to enforce the provisions of these regulations, and to refuse to issue any permit for any building or for the use of any premises, which would violate any of the provisions of these regulations. It shall also be the duty of all officers and employees of the village and especially all members of the Police Department, to assist by reporting to the Village Manager any apparent violation in new construction, reconstruction, or land use.
- B. For the purpose of inspection, the Building Official and Code Enforcement Officer or their authorized representatives shall have free access to materials and work at all times and shall have the power to stop work pending investigation as to materials, work, grades, use, and other provisions of these regulations.
- C. The Building Official, Plan Examiner, and Code Enforcement Officer are authorized, where deemed necessary for enforcement of these regulations, to request the execution of an agreement for recording.
- D. In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any building or land is used in violation of these regulations, the Building Official and Code Enforcement Officer is authorized and directed to institute any appropriate legal action to put an end to such violation.

§ 4.8 Penalties and remedies for violations.

Any person or corporation who violates any of the provisions of these regulations or fails to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and may be punished by the maximum penalty permitted under §10.99. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of these regulations shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith who has assisted in the commission of any such violation shall be guilty of a separate offense, and upon conviction shall be fined as hereinbefore provided and according to a schedule adopted by the Village Commission.

DIVISION 2, COMMISSIONS, BOARDS, AND ADMINISTRATIVE OFFICIALS

§ 4.9 Village Commission.

A. Powers and duties.

In addition to any authority granted to the Village Commissioners by state law or village ordinance, the Village Commissioners shall have the following powers and duties:

1. Enter into development agreements, as provided by state law.
2. Approve final plats prior to recording.
3. Adopt and/or amend the North Bay Village Comprehensive Plan.
4. Initiate, review, and adopt amendments to the ~~Consolidated Land Development Regulations~~ Land Development Code of North Bay Village and the North Bay Village Code of Ordinances.
5. Approve variances to Land Development Code of North Bay Village.
6. Take such other action as the Commissioners may deem necessary to implement the provisions of the ~~LDRs~~ Land Development Code and the Comprehensive Plan.

B. Action by Village Commission.

1. Before action is taken by the Village Commission on any petition the Commission shall consider the recommendations and reports of the Planning and Zoning Board and of the Building Official and Plan Examiner.
2. If an application is before the Village Commission pursuant to this ~~subchapter~~ section, accompanied by a Planning and Zoning Board recommendation, the Commission shall have authority to consider and take final action upon any and all matters and requests contained in the application, ~~any other provisions in this subchapter to the contrary notwithstanding.~~
3. If a written protest against an amendment, supplement, change, variance, or ~~special~~ use exception is filed with the Village Clerk, signed by the owners of 50% or more within 500 feet of the perimeter of the property being considered; or, if the Planning and Zoning Board recommends, after a public hearing as described above, that the proposed amendment, supplement, change, variance, or ~~special~~ use exception be disapproved by a unanimous vote of the full Planning and Zoning Board, such amendment, supplement, change, variance, or ~~special~~ use exception shall not become effective except by a favorable vote of at least 4/5 of all of the members of the Village Commission.
4. In making any final decision, the Commission shall be guided by these regulations and the purposes thereof stated in ~~§ 152.107 of this subchapter~~ § 1.5, and by sound comprehensive planning and zoning principles, and may take any action within the confines of such guides and standards.
5. The action of the Commission may impose conditions or be more restrictive than any petition being considered.
6. No further variances may be granted without prior notice and hearing before the Planning and Zoning Board.

7. When any final action has been taken by the Village Commission, its record together with a certified copy of its minutes and the motion pertaining to such action shall be transmitted to the Building Official and Plan Examiner, and shall be open to the public for inspection during the normal hours of business for Village Hall.

C. *Quorum.*

A majority of the members of the Village Commission constitutes a quorum. Except in the case of an emergency ordinance, which requires four affirmative votes, an affirmative vote of a majority of a quorum present shall be necessary to enact the ordinance.

§ 4.10 Planning and Zoning Board.

A. *Establishment and purpose.*

The Planning and Zoning Board has been created to recommend to the Village Commission on all matters within the general purview of planning, zoning and development. This authority and duty includes the following:

1. Consider and recommend to the Village Commission as to all petitions for amendments, changes, or supplements to this code, ~~the zoning code~~, special exceptions, or variances thereto.
2. Consider and recommend to the Village Commission as to all petitions for changes in the district boundaries of the land use maps in the Comprehensive Plan.
3. Prepare, or recommend, special studies on the location, adequacy, and conditions of specific facilities in North Bay Village, including, for example, studies on recreational facilities, historic buildings, etc.
4. Review and recommend to the Village Commission upon all petitions for development orders. In reviewing site plans for development, the Planning and Zoning Board must consider and abide by the provisions of Chapter 155 of the North Bay Village Code of Ordinances currently in effect.
5. Review and recommend whether specified proposed development conforms to the objectives and policies of the North Bay Village Comprehensive Plan.
6. Conduct such hearings as may be required to gather information to render decisions or make recommendations to the Village Commission.
7. At maximum intervals of five years, review the provisions of the land development code, the Comprehensive Plan and land use maps and the Zoning District Map, and forward the results of the review to the Village Commission at a public meeting.

B. *Officers.*

1. The members of the board shall elect annually, by majority vote, a chair and vice-chair from among its members. The chair shall be the presiding officer, the vice-chair shall preside in the absence or disqualification of the chair.
2. The Village Manager will provide secretarial staff to the board as needed. Professional service advisors may be utilized as determined by the Village Commission.

3. The Mayor and Village Manager shall serve as ex-officio members; however, their participation shall be limited to discussion only. They may not vote or otherwise participate in making recommendations to the Village Commission.

C. *Board membership.*

1. General requirements for membership and election of office for the Planning and Zoning Board are described below.
2. Membership of the board will consist of five members to be appointed by the Village Commission. Members shall be appointed for a term of two years, coinciding with the term of office of Village Commissioners.
3. The members shall be qualified electors of the village as defined in the Village Charter.
4. The members shall be, and shall remain during their respective terms of office, residents of the village. When a seat becomes vacant on the board, a successor shall be appointed by the Commission to fill the unexpired term.
5. The Village Commission can remove any member from the Planning and Zoning Board by majority vote of the Commission.

D. *Meetings.*

The Planning and Zoning Board shall hold regular monthly meetings and may hold special meetings at any other time. Special meetings shall be held on written request of the chairman and notices shall be mailed three days prior to the special meeting. In the event the chairman fails to call a special meeting, upon request of any board member, a special meeting shall be held upon written call of two other members of the board, notices shall be mailed three days prior to the called meeting.

E. *Quorum and voting.*

The presence of three members constitutes a quorum. A majority vote of the board shall be required on all decisions and recommendations to be made to the Village Commission.

F. *Authority, duties and decisions.*

1. The Planning and Zoning Board as established in § 32.30 through § 32.34 shall have the authority and duty to consider, act upon, and recommend to the Village Commission as to all petitions for amendments, changes, or supplements to these regulations; variances or special exceptions thereto; changes in the district boundaries of the Zoning District Map; petitions appealing an administrative decision and amendments to the Comprehensive Plan. The board shall also have the power to study and recommend to the Village Commission on all matters within the general purview of Comprehensive Planning and zoning.

2. Periodic review.

It shall also be the duty of the Planning and Zoning Board, in cooperation with the Village Attorney, to continuously review the provisions of these regulations, the Comprehensive ~~master~~ Plan, and the Zoning District Map to offer recommendations for the improvement thereof to the Village Commission. At maximum intervals of five years, these regulations, the Comprehensive ~~master~~ Plan, and the Zoning District Map shall also be subject to a comprehensive review and a

report thereof, with recommendations submitted jointly by the Planning and Zoning Board and the Village Attorney, and shall be presented to the Village Commission at a public meeting.

3. Decisions.

- a. All recommendations of the Planning and Zoning Board shall be made by motion at a public hearing of the board. Any member who has a special financial interest, direct or indirect, shall make that interest known and shall abstain from participation therein in any manner. Willful violation of this provision shall constitute malfeasance in office and shall render the action voidable by the Village Commission. No action shall be taken without a quorum, and majority vote of those present shall prevail.
- b. The Village Clerk shall forward copies of all petitions to the Planning and Zoning Board, at least two weeks prior to the public hearing called for any such petition. The Planning and Zoning Board, or any of its members, may inspect the premises and area under consideration. Prior to making its recommendation the board shall consider the written recommendations thereon of the Building Official and Plan Examiner.
- c. After the public hearing, the report and recommendation of the Planning and Zoning Board shall be transmitted in writing to the Village Commission as a part of the record. The report of the Planning and Zoning Board shall include a recommendation on each and every request by the petitioner, but shall not be necessarily limited by the scope of the petition.

§ 4.11 Code Enforcement. [REFER TO CHAPTER 153]

§ 4.12 Village Manager.

The Village Manager is designated as the appointing manager of each of the village's departments and serves as an ex-officio member of the Planning and Zoning Board.

§ 4.13 Planning and Zoning Official.

The Planning and Zoning Official shall serve as head of the building department. As such, his duties shall include the following:

1. Oversee the appropriate application of the provisions of this code and county and state laws as they pertain to this code.
2. Receive all applications for development orders and development permits, review them for completeness, and initiate processing procedures.
3. Ensure that a concurrency evaluation, when necessary, is conducted as part of the processing of each request for development permit and that the results of the evaluation are made a part of the application.
4. Assist the Village Commission and Planning and Zoning Board through staff reports and recommendations regarding applications for development orders, ~~and permits, and~~ amendments to the Comprehensive Plan and Land Development Code.
5. Ensure appropriate interdepartmental coordination regarding the review and approval of tentative and final plats, final development orders, and final development permits.

§ 4.14 Building Official.

The Building Official shall serve as head of the building department. As such, his duties shall include ~~the following:~~ Overseeing the appropriate application of the provisions of this the building code and county and state laws as they pertain to this the building code.

DIVISION 3, AMENDMENTS AND CHANGES TO LAND DEVELOPMENT REGULATIONS LAND DEVELOPMENT CODE AND COMPREHENSIVE PLAN

Note: [LDR Sec. 2.6 limiting the number of Comp Plan Amendments to two per year is no longer applicable per HB 7207.]

§ 4.14 Amendments in general.

A. General.

The Village Commission may, from time to time, after a public hearings before the Planning and Zoning Board and the Village Commission, amend or change the Comprehensive Plan, the district boundaries of the Zoning District Map, or the regulations established herein. Such amendments or changes shall be in general accord with sound principles of planning and zoning and with the purpose of these regulations.

B. Process.

1. Any person may apply to the village to amend the Comprehensive Plan or ~~these Land Development Regulations~~ this Land Development Code.
2. When an application for an amendment is received, it shall be forwarded to the Planning and Zoning Board for its recommendation at least ten days prior to the public hearing at which it will be heard.
3. The Planning and Zoning Official will forward his comments to the Planning and Zoning Board prior to the hearing.
4. The hearing by the Planning and Zoning Board on an amendment to the Comprehensive Plan shall be held as provided in ~~§ 152.096~~ § 4.15.B or § 4.15.C as applicable and § 4.15.D
5. After the hearing, the report and recommendation of the Planning and Zoning Board will be transmitted to the Village Commission.

~~Amendment to the Comprehensive Plan or the land development regulations shall be by ordinance. The city commission shall hold two public hearings on the proposed amendment as required by section 163.3184(15)(b), Florida Statutes; provided, however, that only one hearing by the city commission shall be required for small scale development amendments as authorized by section 163.3187((1)(c)3., Florida Statutes. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second public hearing shall be held as provided in § 152.096 of the city code.~~

Note: [The above text is incorporated in the references to applicable Florida Statutes.]

§ 4.15 Amendments to the Comprehensive Plan.

A. Generally.

Amendments to the Village's Comprehensive Plan shall be undertaken only in accordance with the provisions for such amendments as set forth in F.S. § 163.3184 of the Community Planning Act.

B. Village initiated changes.

1. The Village Commission may initiate amendments to the Comprehensive Plan pursuant to the provisions of F.S. § 163.3184.
2. Approval of any change to the Comprehensive Plan shall require the affirmative vote of a majority of the members of the Village Commission present.

C. Property owner-initiated changes.

1. Changes involving land use boundaries or categories.

- a. A request, by a duly certified property owner or his agent, for a change in land use category or boundaries shall be considered only if owners of at least 51 percent of the property involved in the requested change submit to the village clerk a duly signed and notarized petition accompanied by the proper fee.
- b. The Planning and Zoning Official will review the application for the requested change in land use boundary or category and make a determination whether or not the requested change qualifies as a small scale development activity plan amendment under the provisions set forth in F.S. § 163.3187(1).

(1) If the requested change qualifies as a small scale development activity plan amendment under the provisions of F.S. § 163.3187(1), the Village Clerk will schedule the first required public hearing before the Planning and Zoning Board, acting as the Local Planning Agency, to be held not more than 60 days after the application submission is found to be complete. The Local Planning Agency shall make a recommendation to the Village Commission. Thereafter, the village shall conduct the amendment process as provided for under the provisions of the Community Planning Act.

(2) If the requested change does not qualify as a small scale development activity plan amendment under the provisions of F.S. § 163.3187(1), the Planning and Zoning Official will so notify the applicant and the Village Clerk will schedule the first required public hearing before the Planning and Zoning Board, acting as the Local Planning Agency, to be held not more than 60 days after the application submission is found to be complete. Thereafter, the village shall conduct the amendment process as provided for under the provisions of the Community Planning Act governing the Expedited State Review Process.

c. Approval of any change in a land use category or boundary shall require the affirmative vote of a majority of the members of the Village Commission present.

d. Reapplication.

No property owner application for amendment to the Comprehensive Plan involving changes of land use boundaries or categories shall be filed less than one year after the date of disapproval by the Village Commission or conclusion of an appeal, whichever is later, of an application involving the same land or any portion thereof.

2. Changes to the Comprehensive Plan not involving land use categories or boundaries.

- a. Any resident of the village may request an amendment, not involving land use categories or boundaries, to the Comprehensive Plan.
- b. Such requests shall be submitted, in writing, to the Village Clerk, accompanied by the reasoning and benefits expected to accrue to the village as a result of the proposed change.
- c. The Village Clerk shall forward the request to the Village Commission for its consideration.
- d. If the Village Commission determines that the proposal warrants further consideration, it will schedule the proposal for consideration.
- e. Approval of any change to the Comprehensive Plan shall require the affirmative vote of a majority of the members of the Village Commission present.

D. Public hearings.

Public hearings conducted to consider amendments to the Comprehensive Plan shall, at a minimum:

- 1. Comply with the requirements of state law.
- 2. Permit any person to submit written recommendations and comments before or during the hearing.
- 3. Permit a reasonable opportunity for interested persons to make oral statements.

E. Expiration of application.

A property owner initiated application to amend the Comprehensive Plan shall expire 180 days after written notice has been served by the Planning and Zoning Official to the applicant requesting that the applicant provide additional information or that the applicant needs to undertake a specific action(s) before the application can be further considered; provided that the applicant has not supplied the village with the requested information, has not provided evidence to the village that he/she has undertaken the specific action(s) set forth in the written notice, or has not requested, in writing, an extension.

§ 4.16 Land development regulations amendments Amendments to the Land Development Code.

A. Spot zoning.

- 1. Prohibited.

Spot zoning shall be prohibited with regard to all amendments or changes in the district boundaries of the Zoning District Map or these regulations.

- 2. Defined.

Spot zoning, for the purposes of these regulations, is defined as having one or more of the following characteristics set forth in subsections a – d c.

- a. Individuals seeking to have property rezoned for their private use, with the application showing little or no evidence of one or more of the following:

- (1) consideration of the general welfare of the public;
- (2) the effect on the surrounding property (including adequate buffers);
- (3) whether all uses permitted in the classification sought are appropriate to the location proposed;
- (4) ~~or conformity to the comprehensive master plan~~ or conformity to generally accepted Comprehensive Planning and zoning principles (including alterations to the population density patterns and increase of load on utilities, schools, and traffic);

- b. ~~The amount of land involved is small. The proposed change is not in conformity with the Comprehensive Plan.~~
- c. The proposed rezoning would grant privileges not generally extended to property similarly located in the area.

B. Amendments rezoning property or substantially changing the uses permitted in zoning districts.

1. Conditions for approval. No proposed zoning amendment shall be approved unless:
 - a. The proposed amendment will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 - b. There is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest, and not merely in the interest of an individual or small group of people.
 - c. There is a convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which an applicant states he intends to make of the property involved).
 - d. There is convincing evidence that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 - e. The proposed change is in accord with the Comprehensive ~~master~~ Plan and sound Comprehensive Planning and zoning principles.
2. Reconsideration of district boundary changes. When a proposed change in district boundaries has been acted upon by the Village Commission and disapproved or failed of passage, such proposed change, in the same or substantially similar form, shall not be reconsidered by the Village Commission for a period of at least six months following the date of such action.

C. Amendments that do not rezone property or substantially change uses permitted in zoning districts.

Amendments to the Land Development Code that do not rezone property or substantially change uses permitted in zoning districts shall be in general accord with sound comprehensive planning and zoning principles and consistent with the adopted Comprehensive Plan.

CHAPTER V, PERMITS AND DEVELOPMENT APPROVALS

§ 5.1 - Purpose and intent.

The purpose of this chapter is to set forth the application and review procedures required to obtain development orders and certain types of permits; to establish regulations, procedures and standards for review and approval of all proposed development in the village and to adopt a development review process that is efficient in terms of time and expense; effective in addressing the natural resource and public facility implications of proposed development; and, equitable with regard to established regulations and procedures, respect the rights of property owners and consideration of the interest of the citizens of the village.

§ 5.2 - Development permit required.

No development allowed by this Code, as more fully referred to in § 5.3, including accessory and temporary uses, shall be established or changed, no structure shall be erected, constructed, reconstructed, altered, or moved and no building used, occupied, or altered with respect to its use after the effective date of adoption of this Land Development Code until there is on file in the village an approved development order for said action. Nothing herein shall relieve any applicant of the additional responsibility of obtaining any permit(s) required by any applicable statute, ordinance, or regulation in compliance with all of the terms of this Land Development Code or any other applicable laws.

DIVISION I, PROCEDURES FOR OBTAINING DEVELOPMENT ORDERS

§ 5.3 – Application required.

Application for any development order shall be made in writing on the appropriate form obtained from the ~~building and zoning department~~ Village Clerk and shall be made by the owner(s) of the property for which the action is being requested or by his authorized agent.

§ 5.4 – Designation as minor or major development.

At the time the owner or his agent requests an application for development order, the department shall determine whether the proposed project constitutes a minor development 1, minor development 2, or major development.

~~A. Major development. A development shall be designated as a major development if it satisfies one of the following criteria:~~

- ~~1. The development is a residential project of over six dwelling units per acre.~~
- ~~2. The development involves more than 10,000 square feet of nonresidential floor space.~~

~~B. Minor development. A development shall be designated as a minor development if it falls beneath the thresholds appearing in § 2.7(1). Minor developments are further subdivided into minor development I and minor development II. A development which contains more than two dwelling units or more than 299 square feet of commercial space shall be a minor development II. All those falling below these thresholds shall be designated minor development I.~~

Note: *[The following text is has been editorially changed but is substantively the same as the above text from the Sec. 2.71 of the Land Development Regulations]*

A. *Minor development 1.*

1. A development will be designated a minor development 1 if it contains two (2) or fewer dwelling units or not more than 299 square feet of commercial use.
2. Minor development 1 projects will be reviewed and approved administratively by the Building Official.

B. *Minor development 2.*

1. A development will be designated a minor development 2 if it contains from three (3) to six (6) dwelling units or from 300 to 10,000 square feet of commercial use.
2. Minor development 2 projects will be heard at public hearings before the Planning and Zoning Board and the Village Commission.

C. *Major development.*

1. A development shall be designated as a major development if it contains seven (7) or more dwelling units or more than 10,000 square feet of commercial use.
2. Major development projects will be heard at public hearings before the Planning and Zoning Board and the Village Commission.

§ 5.5 – Basic application requirements for all developments.

Fifteen copies (perhaps fewer paper copies and allow for electronic copies?) of the following basic materials shall be submitted before any application for a development order shall be considered complete.

- A. The village's standard application forms, completed, signed by all property owners or their designated agents, and notarized. In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.
- B. A survey at a scale of not less than one inch equals 40 feet, prepared by a registered land surveyor and not more than one year old and including the legal description of the property, all easements, and rights-of-way.
- C. Except for a single-family residence, a site plan to include physical features in or adjoining the site, proposed driveways, alleys, off street parking and loading areas, storm drainage, sanitary sewer facilities, and lighting systems.
- D. Preliminary floor plans and elevations of proposed buildings at not less than 1/16 inch scale.
- E. Location, height, and type of all proposed buildings, walls, signs, landscaping, and open space. Tabular project summary including total acreage, project density and FAR floor area ratio (FAR) lot coverage, open space, and number of parking spaces. If variances are being requested, the extent of these variances from requirements shall be noted.
- F. Level of service assessment (See Division 2, §5.17 through 5.20).
- G. Filing fees. See Appendix F § ??? for copy of fee schedule.

§ 5.6 – Major development application requirements.

In addition to the ~~materials listed above~~ basic application requirements of § 5.5, fifteen (15) copies **(perhaps fewer paper copies and allow for electronic copies?)** of the following may be required to accompany an application for a major development permit:

- A. Development impact study which shall demonstrate whether the impact of the proposed development is favorable, adverse, or neutral on the economy, public services, environment, and housing supply of the village.
- B. Description of the relationship of the proposed project to surrounding, existing, and proposed future land uses, and to existing zoning, and the village's Comprehensive Plan.
- C. Listing of any special permits, variance, or exemptions ~~from the zoning ordinance~~ or any other village ordinance that may be required.

§ 5.7 – Review of development plan.

- A. Within fifteen (15) working days of receipt of a petition for development plan approval the building official shall:
 - 1. Determine ~~that~~ whether or not the information is complete and if incomplete ~~and~~ inform the applicant in writing of the deficiencies. The applicant may submit an amended plan within ten days without payment of a reapplication fee.
 - 2. Determine that the petition is complete.
 - a. If the petition is for a minor development, approve or disapprove the application.
 - b. If for a major development ~~or minor development II~~, proceed with the following procedures.
- B. Prepare a written report setting forth the factual conclusions and:
 - 1. Recommend that the petition be approved.
 - 2. Recommend that the proposed development permit be denied; or
 - 3. Recommend that the petition be denied unless specific modifications are made. The modifications shall be described in sufficient detail and exactness to allow the Applicant to amend his request accordingly.

§ 5.8 – Site plan review, site plan and model required.

- A. *Site plan and model required.*

For any proposed development or redevelopment within the village other than a single-family residence, a site plan and a computer model, or an architectural model built to scale, shall be ~~required and~~ furnished to the Village Manager, or his/her designee. Within ten (10) days prior to the Planning and Zoning Board public hearing, the applicant shall make available for viewing a computer model or an architectural model and photographs depicting same. If an architectural model is provided, said model shall be retrieved by the developer within thirty (30) days following the final public hearing before the Village Commission. The photographs depicting the model and any computer model shall become part of the public records. ~~Said~~ Any computer or architectural

model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that ~~all setbacks~~ no setback for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.

B. Site plan requirements.

Approval of the site plan shall meet the requirements of ~~§ 152.095~~ § 8.10.D.4. The site plan shall include but not be necessarily limited to the following material, including conformance with all State laws and those of Dade County ~~and state laws~~.

1. The title of the proposed project and the name of the site planner, engineer, architect, landscape architect, developer, and owner.
2. The north point, scale (1/16 inch to the foot, or larger), and date of preparation of the site plan.
3. Existing and proposed zoning district boundaries.
4. Existing easements (with the ownerships thereof noted on the plan), property lines, streets, buildings, and other physical features in or adjoining the project.
5. Proposed streets, alleys, driveways, walkways, curb cuts, off-street parking spaces, loading areas, outdoor lighting systems, storm drainage, and sanitary sewer facilities.
6. Preliminary floor plans of typical floors and elevations of any proposed building according to a 1/16 inch scale.
7. Location, height, and type of all proposed buildings, structures, uses, signs, fences, walls, landscaping, and open space.
8. Tabular project summary, indicating the total acreage, plot area density, lot coverage, open space, and off-street parking spaces. If variances are being sought, the extent of those variances from the requirements of this chapter shall be included within the tabular summary.
9. Review by Planning and Zoning Board and Village Commission.
 - a. Site plans for a building or buildings which contain more than two (2) dwelling units, or more than 299 square feet of commercial or office space shall be reviewed by the Planning and Zoning Board and the Village Commission.
 - b. In reviewing site plans for development, the Planning and Zoning Board and the Village Commission must consider and abide by the provisions of chapter 155 of the North Bay Village Code of Ordinances currently in effect.
 - c. The review by the Planning and Zoning Board and Village Commission shall attempt to establish that the proposed development or redevelopment conforms to all applicable provisions of the building and zoning regulations of the village and the Florida Building Code; and that the proposed development or redevelopment has a design and arrangement which:
 - (1) Protects against and minimizes any undesirable effects upon contiguous and nearby property.
 - (2) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.
 - (3) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.
 - (4) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

- d. The review of a site plan does not indicate or imply approval of the working drawings (plans) and specifications required for the building permit.
- e. Requests for variances shall require a separate public hearing.

§ 5.9 – Administrative site plan modification.

- A. An amendment to a site plan that has been approved by the Planning and Zoning Board and the Village Commission pursuant to ~~§ 152.095 and § 152.105(C)~~ § 4.2 and § 5.8 may be approved by the Village Manager upon recommendation of the Village ~~Planner~~ Planning and Zoning Official without further review or approval by any such body, as follows:
 - 1. Any modification to the overall combination of unit types within the building(s) shown on the approved site plan or any increase in the total number of units, provided that the additional total number of units does not exceed five percent of the total number of dwelling units of the approved site plan and the resulting total number of units does not exceed the allowable density under the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code.
 - 2. Any modification to increase the size of any units shown on the approved site plan provided that the modification is consistent and is not in violation of the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code. Further, the total floor area for the site plan modification shall not exceed ten percent of the approved site plan after deducting any increase in total floor area directly attributed to bringing unit sizes into compliance with the current minimum unit size set forth in the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code. Any increase in the number or in the size of units will be subject to review in order to determine if concurrency requirements are met.
 - 3. Any modification to increase or decrease the floor-to-ceiling dimensions of any individual floor within the approved site plan, provided that the modification complies with the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code and does not result in a modification of the number of floors for the approved site plan.
 - 4. Any modification to increase or decrease the number of parking spaces within the approved site plan made in order to conform off-street parking of the approved site plan to any modification of a nature described in subparagraphs ~~§ 152.105(c)(10)(a)(1) or (a)(2)~~ A.1 or A.2, preceding, provided that the modification shall be substantially consistent with the approved site plan and not in violation of the ~~Village of North Bay Village's Code of Ordinances~~ Land Development Code or any applicable state or federal law.
 - 5. Any modification to the footprint of any building shown on the approved site plan provided that the modification does not change the generalized location of the building(s) shown on the approved site plan nor conflict with buffering requirements and is not in violation of the ~~Village of North Bay Village's Code of Ordinances~~.
- B. Any modifications approved by the Village Manager upon recommendation of the Village ~~Planner~~ Planning and Zoning Official pursuant to ~~this Section 152.105(C)(10)~~ § 5.9 shall be subject to the following limitations:
 - 1. Any modification to an approved site plan not expressly authorized in ~~this subsection 152.105(C)(10)~~ under § 5.9 shall require review and approval in accordance with the requirements and procedures for review and approval of a new site plan, as set forth in ~~Sections 152.095 and 152.105(C)~~ § 5.8.

2. Modifications to an approved site plan approved pursuant to ~~this subsection 152.105(C)(10)~~ § 5.9 shall take effect upon approval by the Village Manager, upon recommendation of the ~~Village Planner~~ Planning and Zoning Official.
- C. Courtesy notification of approved site plan modification review will be given to property owners subject to the requirements of ~~subsection 152.096(A)(2)~~ § 4.4.A, hearing and notices, of the ~~Village of North Bay Village's Code or Ordinances~~ Land Development Code.

§ 5.10 – Expiration of site plan approval.

Site plans approved in accordance with these regulations shall expire two (2) years following final approval by the Village Commission unless otherwise approved by development order. Such site plans may be granted no more than two (2) one-year renewals subject to approval by the Village Commission. Site plans already approved, but for which a building permit has not been issued, shall expire four (4) years following final adoption of this ordinance. To avoid expiration of the site plans the applicant must apply for a full building permit within the time frames set forth above.

§ 5.11 – Building permits.

While both development permits and development orders are considered development orders by state law, building permits are distinguished in this Code as approvals for actual construction or installation. ~~Appendix B contains a copy of a North Bay Village building permit application.~~

A. Authority.7.1

The South Florida Building Code has been adopted by ~~the Village of~~ North Bay Village as the "Building Code of North Bay Village." All applications for building permits shall be submitted to and processed by the Building Official.

B. Requirements and conditions.

The following requirements shall be met prior to the processing of any application for a building permit.

1. All petitions must be accompanied by two sets of plans and specifications prepared in accordance with the requirements of the South Florida Building Code. The plans must include a survey prepared by a registered land surveyor.
2. Petitions must include a level of service assessment (~~see section 4.2~~ see § 5.18).
3. Petitions for development or redevelopment other than for a single-family residence must contain a site plan which contains:
 - a. Existing and proposed future land use and zoning district boundaries.
 - b. Existing easements and all physical features in or adjoining the project.
 - c. Proposed streets, alleys, curb cuts, off-street parking spaces, loading areas, outdoor lighting, storm drainage, and sanitary sewer facilities.
 - d. Tabular project summary indicating lot area, building area, density, and off-street parking spaces.
 - e. Location, type, height of all proposed buildings, signs, fences, landscaping, and open space.
 - f. Petitions must be accompanied by the appropriate filing fee as ~~described in chapter 152 of the North Bay Village Zoning Code~~ set forth in § 5.12.

§ 5.12 – Filing fees, charges for consultant services, and escrow account.

A. Collection.

All required fees pursuant to this chapter shall be collected by the Building Department.

B. Payment in advance.

1. All persons, firms, or corporations petitioning the Planning and Zoning Board, the Village Commission, and the Village Administration to process special requests shall be required to pay in advance all fees and expenses necessitating the public notification a in the newspaper, and notices to property owners. The fees are set forth in **Appendix A** following this chapter. [See Ord. 2012-02]
2. All persons, firms, or corporations applying for permits under the provisions of these regulations or amendments thereto, variances from these regulations, special use exceptions as required by these regulations in certain instances, or a change in the classification of a district or a portion thereof shall be required to pay in advance for all expenses relative thereto, in accordance with fee schedules adopted by the Village Commission. Permits for signs and other fees shall be in accordance with fee schedules established by the Village Manager.
3. The payment of such money in advance to the Village Clerk shall be a condition precedent to the consideration of such petition, permit, or amendment.

C. Charges for consultant services established.

1. The Village Manager and/or his/her designee in the review of any building and zoning application presented to the village, may refer any such application to such engineering, planning, legal, technical, environmental, or other professional(s) employed by the village as the manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be made in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the village and such consultant. Charges made by the village shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid upon submission of a village voucher.
2. The applicant shall reimburse the village for the cost of such consultant or employed professional services within thirty (30) days of receipt of a voucher from the village upon submission by the consultant. Such reimbursement shall be a condition of the zoning resolution. These fees shall be in addition to any and all other fees required by law, rule, or regulation of the Village Code.

D. Escrow account.

1. At the time of submission of any application or thereafter, the applicant shall pay the minimum fee outlined in the recovery cost schedule for planning and zoning services set forth herein, which funds shall be deposited into an escrow account established for this purpose. Withdrawals shall be made to reimburse the village for the cost of professional review services.

2. The applicant shall be provided with copies of any village voucher for such services as they are submitted to the village. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such amount is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement of such additional deposit, the village may suspend its review of the application.
3. An application shall be deemed incomplete if any amount shall be outstanding. A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the village. Once all pertinent charges have been paid, the village shall refund to the applicant any funds remaining on deposit.
 - a. Recovery costs of administrative review and processing for each category of application.
 - b. Land Use Plan Amendment\$15,000.00
 - c. Rezoning10,000.00
 - d. Site Plan Review (conditional uses, variances10,000.00
 - e. Site Plan Modification (no Commission review)4,000.00
 - f. Unusual and New Uses10,000.00
 - g. ~~Special~~ Use Exception10,000.00
 - h. Request for encroachments, variances, etc. single-family2,500.00
 - i. Plat10,000.00
 - j. Waiver of Plat3,000.00
 - k. Appeals of Administrative Decisions3,000.00
 - l. Temporary Uses (except garage sales) bond required2,500.00
 - m. The Village shall be reimbursed for Planning and Zoning services not categorized herein under this schedule in accordance with **Appendix A.** of the Village Code.

§ 5.13 – Fees for copies of records.

The Village Clerk shall charge and collect fees for furnishing copies of plans, permits, and other records to the public, in accordance with a fee schedule established by the Village Manager.

§ 5.14 – Errors, violations, and permits erroneously issued. [permits erroneously issued is NEW]

- A. The issuance or granting of a permit or approval of plans or specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this ~~chapter~~ LDC. No permit presuming to give the authority to violate or cancel the provisions of this ~~chapter~~ LDC shall be valid except insofar as the work or use which it authorizes is lawful.
- B. The issuance of a permit upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on there under when in violation of this ~~chapter~~ LDC, or any ordinance of the Village.

C. When permits are issued through administrative error, the error shall be called to the attention of the permit holder as soon as it is discovered. If the error is not voluntarily corrected, the matter shall be immediately referred to the Village Commission who shall take such lawful action as is appropriate and necessary.

§ 5.15 – Certificates of occupancy.

- A. No premises shall be used and no building hereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy and compliance has been issued by the Building Official stating that the building or premises complies with the South Florida Building Code and the provisions of these regulations. In the event there is a question as to the nature or legality of a use, the Building Official shall require affidavits and such other information as he may deem appropriate or necessary to establish the nature and legality of the use before issuance of a certificate of occupancy.
- B. No permanent electrical service will be permitted until a final certificate of occupancy has been issued.
- C. Whenever a request has been made to the Building Official for the issuance of a certificate of occupancy, it shall be accompanied by a certificate of compliance consisting of affidavits from the building contractor (or owner-builder) responsible for the building and the architect or engineer whose seal appeared on the original and all supplementary plans filed in support of the application. The affidavits by the architect or engineer and the building contractor (or owner-builder), respectively, shall state affirmatively that the plans and specifications and all changes thereto are in compliance with, and that the buildings or structures have been substantially completed in accordance with, the South Florida Building Code and this chapter or any variance thereto lawfully granted by the Village Commission.
- D. Temporary certificates of occupancy may be issued for commercial or multi-family structures for purposes of testing. No temporary certificate of occupancy may be issued for a single-family residence. No occupancy shall be permitted until a final certificate of occupancy has been issued.
- E. The Building Official shall not issue any certificate of occupancy for any new or remodeled or otherwise structurally altered building without first receiving the certificate of compliance as set forth in ~~division (C)~~ subparagraph C, above. Upon the receipt of the certificate of compliance, it shall be examined by the Building Official.
- F. Following a physical examination by the Building Official, determination of compliance with all applicable codes and ordinances, and conditioned upon his written certification of the accuracy of the information contained in the affidavit supporting the certificate of compliance, the Building Official shall issue a certificate of occupancy.
- G. Any person submitting false information by affidavit in support of a certificate of compliance may receive the maximum punishment as provided by the Village Charter. Any certificate of occupancy issued upon information supplied therein shall be subject to revocation.
- H. No final inspection shall be made nor shall any certificate of occupancy be issued until all fees and charges due to the village pertaining to the property are fully paid.

§ 5.16 –VACATION OF STREETS, ALLEYS, EASEMENTS, AND PUBLIC RIGHTS-OF-WAY. [NEW]

A. Policy declaration.

The village declares the following to be its general policy regarding vacation of streets, alleys, easements, and public rights-of-way. The vacation of streets, alleys, easements, and public rights-of-way shall be considered based primarily, but not exclusively, on the effect on utilities located in said right-of-ways, emergency services access, feasibility of road construction, access to lots abutting the vacation, area traffic patterns and adjacent landowners' input.

B. Vesting of title upon vacation.

Whenever any property has been conveyed to, or acquired by, the village for use as a street, alley, easement, or public right-of-way, and thereafter is vacated, title to the lands included within such street, alley, easement, or public right-of-way, or so much thereof as may be vacated, shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues, as follows:

1. In the event that a street, alley, easement, or public right-of-way, which constitutes the exterior boundary of a subdivision or other tract of land, is vacated, title to vacated property shall vest in the owners of the land abutting the vacated property at the time said property was acquired for public use, was a part of the subdivided land, or was a part of the adjacent land.
2. In the event that less than the entire width of a street, alley, easement, or public right-of-way is vacated, title to the vacated portion shall vest in the owners of the land abutting such vacated portion.
3. In the event that a street, alley, easement, or public right-of-way bounded by straight lines is vacated, title to vacated property shall vest in the owners of the abutting land, with each owner taking to the center of the street, alley, easement or public right-of-way, except as provided in subsections A. and B. of this section. In the event that the boundary lines of abutting lands do not intersect the roadway at a right angle, the land included within such roadway shall vest as provided in subsection D. herein.
4. In all instances not specifically provided for, title to the vacated property shall vest in the owners of the abutting land, with each owner taking that portion of the vacated property to which his land or any part thereof is nearest in proximity.
5. No portion of a roadway, upon vacation, shall accrue to an abutting roadway.

C. Reservation of land for utility uses.

In the event of vacation, easements may be reserved for the continued use of existing sewer, gas, water or similar pipelines and appurtenances, for ditches, or drainage and appurtenances, and for electric, telephone, cable and similar lines and appurtenances.

D. Vacation to be accomplished by ordinance.

If the Village Commission approves an application for a vacation, the actual vacation of any property within a street, alley, easement, or public right-of-way within the village shall be accomplished by ordinance.

E. Recordation of vacation ordinance.

Any ordinance for vacation of any street, alley, easement or public right-of-way, once duly passed and effective, shall be recorded or caused to be recorded by the village in the official records of Miami-Dade County. The vacation shall not be effective until such recording has been completed and the applicant who initially requested the vacation has reimbursed the village for its recording costs and fees. No permits shall be issued until such time as the recordation of the vacation has been completed.

F. Reapplication.

No application for a vacation of streets, alleys, easements, or public rights-of-way shall be filed less than one year after the date of disapproval by the Village Commission or conclusion of an appeal, whichever is later, of an application for vacation involving the same land, easement or right-of-way or any portion thereof.

G. Expiration of application.

An application for the vacation of a street, alley, easement or public right-of-way shall expire 180 days after written notice has been served by the Building Official to the applicant requesting that the applicant provide additional information or that the applicant needs to undertake a specific action(s) before the application can be further considered; provided that the applicant has not supplied the village with the requested information; has not provided evidence to the village that he/she has undertaken the specific action(s) set forth in the written notice; or has not requested, in writing, an extension.

DIVISION 2, CONSISTENCY AND CONCURRENCY DETERMINATIONS

§ 5.17 – Consistency with North Bay Village Comprehensive Plan.

- A. No development activity may be approved unless it is found that the development is consistent with the density and intensity requirements in the Village's Comprehensive Plan; meets the criteria contained in the ~~land use plans~~ in the Comprehensive Plan; and that those public services and facilities addressed in the Comprehensive Plan will be available at the prescribed levels of service (LOS) concurrent with the impact of the development on those services and facilities.
- B. If a development proposal is found to meet all the requirements of ~~this code~~ the LDC it shall be presumed to be consistent with the Comprehensive Plan. If a question of consistency is raised, the Building Official shall make a determination of consistency or inconsistency and support the determination with written findings.

§ 5.18 – Level of service compliance requirements.

All applications for development orders shall be required to demonstrate that the proposed development does not degrade adopted levels of service in North Bay Village. A level of service assessment demonstrating that the proposed development will not degrade the adopted level of service by meeting one of the following general tests, shall accompany each request for development order or development permit approval:

- A. Capacity exists at the time of application to meet the service needs of the proposed development based upon the scheduled completion and occupancy, and based upon the standards described below.
- B. Capacity does not exist at the time of application, but shall exist at the time of completion and occupancy of the proposed development. Existence of capacity shall be ensured through one of the following:
 - 1. Construction is underway to provide additional capacity and is scheduled for completion by or before scheduled occupancy of the development.
 - 2. Contracts are signed for construction to provide additional capacity on a schedule which provides capacity at the time of occupancy of the development.

§ 5.19 – Determining existing capacity.

For the purposes of these regulations, the available capacity of a facility shall be determined by:

A. Adding together:

1. The total capacity of existing facilities operating at the required level of service; and
2. The total capacity of new facilities that will come available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
 - a. Construction of the new facilities is under way at the time of application.
 - b. The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the development permit is issued.
 - c. The new facilities have been included in the appropriate capital improvement program annual budget.
 - d. The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order pursuant to F.S. ch. 380.

B. Subtracting from that number the sum of:

1. The demand for the service created by existing development; and
2. The new demand for the service that will be created concurrent with the impacts of the proposed development by the anticipated completion of other presently approved developments.

§ 5.20 - Burden of showing compliance.

The burden of showing compliance with level of service requirements shall be upon the developer. In order to be approvable, applications for development approval shall provide sufficient information showing compliance with these standards.

A. *Potable water.*

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water as established in the potable water sub-element of the North Bay Village Comprehensive Plan.

1. Minimum design flow: 120 gpd per capita ~~criteria~~
2. Pressure: To meet Dade County fire flow ordinance

B. *Wastewater.*

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater treatment as established in the Capital Improvements Element of the North Bay Village Comprehensive Plan:

Minimum design flow: 110 gpd per capita

C. *Transportation system.*

1. Level of service.

New development shall not be approved unless there is sufficient available capacity to sustain the following level of service for transportation systems as established in the Transportation ~~Circulation~~ Element of the North Bay Village Comprehensive Plan:

Type of Facility	Peak Hour Level of Service
Arterial <u>roadways</u>	D
Collector <u>roadways</u>	D
Limited <u>access roadways</u>	D

2. Determination of impact.

The projected level of service for arterials and collectors within the traffic shed shall be calculated based upon estimated trips to be generated by the project, or where applicable, the first phase of the project, and taking into consideration the impact of other approved but not completed developments within the projected area of impact. Information on committed development within the traffic shed shall be provided by the village/~~county~~ and/or county.

D. *Drainage system.*

~~New development shall not~~ No new development shall be approved unless there is sufficient available capacity to sustain ~~the following levels of service for the drainage system~~ a five year frequency storm event including retention or detention with filtration of the first inch of runoff, as established in the drainage subelement of the North Bay Village Comprehensive Plan.

E. *Solid waste.*

~~New development shall not~~ No new development shall be approved unless there is sufficient available capacity to sustain ~~the following~~ a level of service for solid waste of seven (7) pounds per capita per day as established in the solid waste subelement of the North Bay Village Comprehensive Plan

F. ~~*Recreation.*~~

~~Not applicable. See Appendix C for Florida Department of Community Affairs communication dated June 4, 1990.~~

DIVISION 3, SUBDIVISION REGULATIONS

§ 5.21 –Purpose and intent.

The public health, safety, comfort, and welfare require the harmonious, orderly, and progressive development of land within the village. To this end, all lands within the village must be subdivided and platted before any development approval can be obtained.

§ 5.22 –Preliminary and final plats.

A. Purpose and intent.

The purpose of requiring and regulating the platting of land within the village is to ensure compliance with the procedural and substantive requirements of the North Bay Village Comprehensive Plan, the Dade County Subdivision Ordinance, chapter 28 of the Dade County Code of Ordinances, and the requirements of F.S. ch.177.

B. Procedures.

1. Fifteen copies (? perhaps less paper copies and electronic copies) of the tentative plat, prepared in accordance with requirements of chapter 28 and prepared by a licensed surveyor, application for tentative plat approval and accompanied by an opinion of title no older than 30 days, a level of service assessment, and a certified survey of the site shall be submitted to the Building Official.
2. The Building Official shall review the tentative plat as to its compliance with objectives of the Village's Comprehensive Plan, including level of service standards.
3. The Building Official shall place the tentative plat on the Planning and Zoning Board's agenda and submit his recommendations to the board.
4. The Planning and Zoning Board votes to approve or disapprove the tentative plat.
5. The Village Manager places the tentative plat on the agenda of the Village Commission and forwards a copy of the Planning and Zoning Board's recommendations and a copy of the Building Official's report.
6. The Village Commission votes to approve or disapprove the tentative plat. If approved, two copies are signed by the Mayor. One signed copy is returned to the surveyor or subdivider; one copy is filed in the public works department.
7. The surveyor or subdivider delivers the signed tentative plat and 14 copies(? perhaps less paper copies and electronic copies) to Miami-Dade County Subdivision Control for processing.
8. Miami-Dade County shall notify the subdivider or surveyor and the village of its action (approve, approve with conditions, or disapprove).
9. After the surveyor prepares the final plat in accordance with chapter 20 and incorporates all conditions, if any, into the plat, he submits the final plat accompanied by a paving, grading, and drainage plan to the Building Official who then shall review it for consistency with the recommendations made by the Village Commission and Miami-Dade Subdivision Control before placing it with an accompanying report and resolution on the Village Commission's agenda.
10. The Village Commission receives the final plat and concurrency evaluation report from the Building Official at its first public hearing to discuss the proposed plat.
11. The Village Commission holds the second public hearing approximately two weeks later and votes to approve or disapprove the final plat. If the commission votes to approve the plat, the mayor signs the ~~line or mylar~~ plat as well as the Resolution accepting the (re)subdivision.

CHAPTER VI, NONCONFORMITIES

§ 6.1 –Defined.

For purposes of this ~~section~~ chapter, a nonconforming lot, structure, use, or characteristic of use, is defined as a platted lot, structure, or use, or combination thereof that does not comply with the use or site development standards of the zoning district in which the lot, structure, use, or characteristic of use, or combination thereof is located, but which was legally established and in existence before the effective date of this ~~section~~ chapter [Jan. 22, 2002 insert new date].

6.2. Purpose and intent.

- A. It is the purpose and intent of this ~~section~~ chapter to permit the continuation of those lots, structures, uses, characteristics of use or combination thereof, which were lawful prior to the passage of this ~~section~~ chapter or future amendment thereto.
- B. This ~~section~~ chapter is designed to provide reasonable and equitable standards and guidelines for the control of nonconforming lots, structures, uses, and characteristics of uses in the regulation of change of use, change in kind or quality of use, change in volume or intensity of use, change in location of use, change of ownership or tenancy of use, accessory or incidental uses to nonconforming lots, structures, uses, or characteristics of uses, enlargement of use, replacement of use, addition or expansion of facilities, new activities, products or services connected with the nonconforming lot, structure, repair of a nonconforming structure, restoration of a nonconforming structure, and abandonment or discontinuance of a nonconforming structure or use, or any combination thereof.
- C. It is the further purpose and intent of this ~~section~~ chapter allow lawful nonconforming lots, structures, uses, and characteristics of use and combinations thereof to continue, subject to specific conditions, in order to not interfere with the existing circumstances surrounding land development within ~~the Village of North Bay Village~~, prior to the effective date of this ~~section~~ chapter any more than is necessary for the proper exercise of police powers relating to the general public welfare of the residents of ~~the Village of North Bay Village~~.

§ 6.3 – Nonconforming classifications.

- A. Within the zoning districts established by this Code, or amendments that may be later adopted to this Code, there may exist:
 - 1. Nonconforming lots
 - 2. Nonconforming structures;
 - 3. Nonconforming uses;
 - 4. Nonconforming characteristics of use;
 - 5. Combinations of nonconforming lots, nonconforming structures, nonconforming uses and nonconforming characteristics of use.

- B. These nonconforming classifications are declared by this ~~section~~ chapter to be incompatible with present permitted uses and all or part of the site development standards regulating permitted uses in the district where the nonconforming classifications are located and, therefore, are the proper subject regulations as provided for herein.

§ 6.4 – Scope.

- A. In order to avoid undue hardship, nothing in this ~~section~~ chapter shall be deemed to require any change in the plans, construction or designated use of any structure on which actual construction was lawfully done prior to the effective date of adoption of this ~~section~~ chapter and upon which actual building construction has been carried on diligently.
- B. For the purposes of this ~~section~~ chapter, the term "actual construction" is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner according to approved plans for the specific improvement. Where evacuation or demolition or removal of an existing structure has been substantially begun, preparatory to building, such evacuation or demolition or removal shall be deemed to be actual construction; provided, however, that work has been and shall be carried on diligently pursuant to a valid building permit.

§ 6.5 – Nonconforming lots of record.

- A. Construction of one single-family dwelling unit.

In any district in which single-family dwellings are permitted, ~~a one (1) single-family dwelling and customary accessory building(s) may be erected on a single lot, tract, or parcel of land of record that is nonconforming with respect to minimum lot area or frontage at the effective date of adoption of this section chapter, notwithstanding limitations imposed by other provisions of this section provided, however:~~

1. Such lots must be in separate ownership and not be of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for ~~area, width or depth or frontage~~ area or frontage that are applicable in the zoning district in which the lot, parcel, or tract is located.
2. ~~Required yard or area dimensions and requirements other than those site development standards applying to area, width, or depth shall conform to the regulations for the zoning district in which such lot is located.~~ The construction otherwise conforms to all other applicable laws and ordinances including, but not limited to, required minimum setbacks, minimum floor area, maximum building height and FEMA requirements, unless a variance is granted to such other regulations pursuant to Chapter VII of this Land Development Code.
3. If two or more lots, or combination of lots, or portions of lots with continuous frontage and single ownership are of record at the time of the passage of this ~~section~~ chapter, and if all or part of the lots do not meet the requirements established for lot ~~areas, width or depth or frontage~~, the lands involved shall be considered to be an undivided parcel and no portion of such parcel shall be used or sold in a manner which diminishes the degree of compliance with established lot ~~width, area and depth~~ area or frontage requirements
4. It shall be the burden of the property owner to demonstrate that the lot is a legal nonconforming lot of record.

B. Construction of other than one single-family dwelling unit.

Notwithstanding limitations imposed by other provisions of this Land Development Code, any lot of record which is nonconforming as to the required minimum frontage requirement the zoning district in which it is located may be used as permitted by the district regulations of the zoning district in which the lot is located, provided:

1. The density or intensity of such use shall not exceed the maximum density or intensity allowable within the zoning district in which the lot of record is located;
2. The construction otherwise conforms to all other applicable laws and ordinances including, but not limited to, required minimum setbacks, minimum pervious area, maximum building height, FEMA requirements, and concurrency requirements, unless a variance is granted to such other regulations pursuant to Chapter VII of this Land Development Code.
3. It shall be the burden of the property owner to demonstrate that the lot is a legal nonconforming lot of record. [NOTE] *This section has been added because there is no section of the code addressing construction of other than a single-family dwelling unit. For example, there are four lots in the CG District that are nonconforming as to required lot frontage and this new subsection would apply to these lots.*

§ 6.6 – Nonconforming uses of land.

A. Defined.

A use of any land or structure, other than a sign, is a nonconforming use if:

1. The use is not listed as a permitted use in the zoning district in which it is located; or
2. The use is not a special use, use exception, or unusual or new use, which was specifically approved by the Village Commission; or
3. The use exists at a density or intensity in excess of that allowable for the zoning district in which it is located.

B. Continuation.

The lawful use of land existing at the time of the passage of this ~~section~~ chapter or an amendment thereto, although such uses do not conform to provisions of ~~this Code~~ the Land Development Code may be continued subject to the following limitations and restrictions:

1. Change in location of use.

A nonconforming use shall not be moved in whole or in part to any other portion of the lot parcel occupied by such use at the effective date of adoption of this ~~section~~ chapter.

2. Change in ownership or tenancy.

All rights and obligations associated with a nonconforming use of land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy, except if abandoned.

3. Accessory uses.

Uses accessory to a nonconforming use not in existence at the time of the effective date of adoption of this section chapter are not permitted.

4. ~~Change to a more restrictive category of use.~~

~~A nonconforming use may be changed to a more restrictive category of nonconforming use as the resulting change reduces the degree of the nonconformity with applicable site development standards and use regulations. For the purpose of this section, a more restrictive category shall be a use or site development standard contained within a more restrictive zoning district.~~

Note: *This appears to be a confusing statement and would probably be fraught with difficulties of interpretation. We would suggest changing this section to read as follows:*

Change of use.

- a. A nonconforming use shall not be changed to another nonconforming use.
- b. A nonconforming use may be changed to a permitted use for the zoning district in which the property is located upon the obtainment of all necessary permits and approvals and may not thereafter be permitted to revert to a nonconforming use.

5. Expansion or extension of use.

No nonconforming use shall be enlarged, increased, expanded or intensified beyond what existed at the time it became nonconforming.

6. Replacement of use.

a. *Destruction of more than fifty percent (50%).*

In the event that any existing nonconforming use is destroyed by more than fifty percent (50%) of its assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser by any means, including fire, flood, wind, explosion, demolition, act of God, or act of a public enemy, such use shall not be replaced.

b. *Destruction of fifty percent (50%) or less.*

- (1) If such nonconforming use is destroyed to a level of ~~less than fifty percent (50%) or less~~ of its total assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser, it may be replaced, except that replacement ~~can~~ shall only occur in compliance with those building, plumbing, electrical, gas, fire, and other construction and safety related regulations in effect at the time of application for a permit to allow replacement.
- (2) In no event shall the destroyed nonconforming use be replaced ~~to a degree or level more restrictive than the original use as to height, lot coverage, total floor area, bulk, or yard setback requirements.~~ **Note:** *This is very confusing, particularly the reference to “more restrictive”. We suggest changing the stricken language to read as follows.*

such that the replacement structure is higher, contains greater lot coverage or floor area, has greater bulk, or lesser setbacks, than the original structure in which the nonconforming use was located.

7. Abandonment or discontinuance of use.

The abandonment or discontinuance of a nonconforming use for a period of 180 consecutive days or six (6) months shall render the nonconforming use status of the specific nonconforming use null and void. In the factual determination of whether a nonconforming use has been abandoned or discontinued, the following factors shall be used, but not be limited to:

- a. An intent to discontinue the nonconforming use through removal of stock in trade or removal of operating equipment.
- b. Some overt act or failure to act which carries with it a sufficient implication that the owner neither claims nor retains any interest in the use of the abandoned property as it stood before the abandonment occurred. The mere renewal and maintenance of an active occupational license, without further positive action, shall not constitute continuance of a nonconforming use.
- c. Inactive water, sewer, or electrical services at the existing facility.
- d. Attempt to continue use shall include but not be limited to an active listing of the property with a realtor or through posting of a for rent sign.

§ 6.7 – Nonconforming structures.

A. Defined

For the purposes of this chapter, a structure or building, other than a sign, is a nonconforming structure if the structure, or any physical characteristic thereof, is not in full compliance with all regulations of the zoning district in which it is located.

B. Continuation.

Where a lawful structure exists at the effective date of adoption or amendment of this ~~section~~ chapter, and it could not be built under the terms of ~~this Code~~ the Land Development Code by reason of restrictions on area, lot coverage, height, yards, location of the lot, or other site development standards concerning the structure, such structure, except as otherwise specifically provided, may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Alteration, enlargement, or expansion of nonconforming structure.
 - a. No such alteration, enlargement, or expansion of a nonconforming structure shall be permitted in a way which increases its noncompliance with present property development and use standards of the zoning district in which it is located.
 - b. ~~but any~~ Any nonconforming structure or portion thereof may be altered to decrease its noncompliance with present site development and use standards of the zoning district in which it is located. Nothing herein shall prohibit the Village Manager's designee from ordering the compliance with all applicable building construction and safety related codes.

2. Replacement, restoration and reconstruction of nonconforming structure.

a. Destruction of more than fifty percent (50%).

In the event any existing nonconforming structure is destroyed by more than fifty percent (50%) of its assessed value at the time of destruction as determined by the official records of the Miami-Dade County Property Appraiser by any means, including fire, flood, wind, explosion, demolition, act of God, or act of a public enemy, such structure shall not be restored, reconstructed or replaced except in compliance with all applicable provisions of the Land Development Code in effect at the time of its restoration, reconstruction or replacement.

b. Destruction of fifty percent (50%) or less.

In the event ~~that~~ any existing nonconforming structure is destroyed by any means, including fire, flood, wind, explosion, act of God, or act of a public enemy by ~~less than 50~~ fifty percent (50%) or less of its total appraised value according to the latest records of the Miami-Dade County Property Appraiser, such structure shall be permitted to be replaced, restored, or reconstructed according to the site development standards in effect at the time of its original construction except that:

- (1) Replacement, restoration and reconstruction ~~can~~ shall occur only in compliance with all other applicable building, plumbing, electrical, gas, fire and other construction and safety related regulations in effect at the time of application for permit to allow replacement, restoration, or reconstruction, and
- (2) ~~In no event shall the destroyed nonconforming structure be replaced to a degree or level more restrictive than the original structure as to height, lot coverage, floor area, yard setbacks or other applicable site development standards at the time of its original construction.~~

Note: *This paragraph is unclear. We believe the following is what was intended.*

In no event shall the replacement structure have a greater density or intensity, height, or floor area; or, lesser minimum dwelling unit sizes, yard setback, or pervious area than the destroyed nonconforming structure.

c. *Repairs and maintenance of nonconforming structures.*

Routine repairs and maintenance of nonconforming structures on fixtures, wiring or plumbing or on the repair or replacement of walls shall be permitted.

d. Change in location of nonconforming structure.

Should any nonconforming structure be moved for any reason to any distance whatever from its original permitted location, it shall then conform to the regulations for the zoning district in which it is located after it is moved.

e. Accessory structure.

Structures normally accessory or incidental to a permitted structure or use in the zoning district in which the nonconforming structure is located may be permitted as accessory structures to the nonconforming structure.

f. Abandonment or discontinuance of nonconforming structure.

The abandonment or discontinuance of a nonconforming structure for a period of 180 consecutive days ~~or six months~~ shall render the nonconforming ~~structure~~ status of the specific nonconforming structure null and void.

§ 6.8 – Nonconforming characteristics of use.

~~Characteristics of use, such as off street parking, off street loading, and landscaping requirements, shall be interpreted to be synonymous with a part of the nonconforming classification of uses and structures legally permitted and existing at the time of the passage of this section or an amendment thereto, although such characteristics of use do not conform to the provisions of this Code.~~

A. Defined.

For the purposes of this chapter, characteristics of use are defined as requirements for off-street parking, off-street loading, and landscaping and buffering.

B. Continuation.

Where a characteristic of use lawfully exists at the effective date of adoption or amendment of this chapter, and does not conform to the requirements of the Land Development Code such nonconforming characteristic of use may be continued so long as it remains otherwise lawful, provided that, when a use or structure is modified in such a way that the use or structure requires a greater amount of parking, landscaping, or buffering than exists prior to the change, the characteristic(s) of use must be brought into conformance with the requirements associated with the changed use or structure.

§ 6.9 – Nonconforming lots, uses, structures, and characteristics of use in combination.

~~If on the effective date of this section chapter, a lot of record, structure, use or characteristics of use of land, in any combination thereof, exists that would not be permitted under the terms of this section chapter, but was lawful at the time of its original existence, that use may be continued unless otherwise deemed abandoned or terminated or required to be eliminated or brought into conformance by other applicable provisions of this section chapter. Subsections (E) and (F) Sections 6.6 through 6.9 shall apply to all nonconforming lots or record, structures, uses and characteristics of use, and combinations of any or all of them any combination thereof.~~

CHAPTER VII, VARIANCES

§ 7.1 – Purpose and intent.

The purpose and intent of this chapter is to provide flexibility in the administration of the Land Development Code when the strict enforcement of the provisions of the Land Development Code would result in an unnecessary hardship.

§ 7.2 – Variance prohibited.

Under no circumstances shall the Village Commission grant a variance to:

- A. Permit a use not generally permitted, or permitted by special exception or special use exception, in the district involved, or any use expressly or by implication prohibited by the terms of this Chapter the Land Development Code in that district, or
- B. Any condition, criteria or site development standard set forth in § 8.10.D.4, pertaining to special exceptions in the high density multiple family residential district, or any condition associated with the approval by the Village Commission of any unusual or new use, special exception, or special use exception.

§ 7.3 – Procedure for consideration of a hardship variance.

A. Planning and Zoning Board public hearing.

The Planning and Zoning Board shall hold a public hearing to consider a request for a hardship variance and shall recommend to the Village Commission, approval, approval with conditions, or denial of the variance.

B. Village Commission public hearing.

The ~~City~~ Village Commission shall have the power, after a public hearing, to vary or adopt the strict application of the requirements of this chapter, and to prescribe appropriate conditions and safeguards associated with the granting of a variance

C. Required findings.

~~In order to recommend approval of a variance, or grant a variance, the Planning and Zoning Board, or the City Commission, as the case may be, must make an affirmative finding with respect to the criteria contained in division (B) above.~~

In order for the Planning and Zoning Board to recommend approval, and for the Village Commission to grant approval, of a variance request, both must make an affirmative finding with respect to all seven (7) of the following criteria:

1. That there are ~~(or are not)~~ special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district.
2. That the special circumstances and conditions were not ~~(or were)~~ self-created by any person having an interest in the property.

3. That the strict application of the provisions of this chapter would ~~(or would not)~~ deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought; and would ~~(or would not)~~ involve an unnecessary hardship for the applicant.
 4. That granting the variance requested will not ~~(or will)~~ confer on the applicant any special privilege that is denied by ~~this chapter~~ the Land Development Code to other land, structures, or buildings in the same zoning district.
 5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.
 6. That granting the variance will ~~(or will not)~~ be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 7. The variance request is not based exclusively upon a desire to reduce the cost of development.
- D. These required findings may be made by one (1) motion addressed to all ~~three (3)~~ seven (7) findings or, at the request of any member of the Board or Commission as the case may be, a finding or findings shall be considered separately.
- E. The findings shall be made prior to the vote on the application.
- F. The variance application shall be considered as a whole unless any member of the Planning and Zoning Board, or City Commission, as the case may be, shall request that the application be considered in parts, in which event the application shall be considered in such parts as requested.
- G. In light of the particular circumstances involved with each separate variance request, the grant of any variance shall not constitute or be deemed a precedent for the grant of any other variance.

§ 7.4 – Non-hardship variances for single-family properties.

- A. Notwithstanding any other provision of this chapter, ~~in residential districts,~~ upon application duly made upon an application form to be provided by the Department, the Planning and Zoning Board will hold a public hearing to consider requests by single-family property owners for a non-hardship variance to setback lines, lot size, restrictions and yard requirements for the location and construction of fences, nonpermanent carports, screen enclosures, sheds, awnings and air conditioning compressors, swimming pool pumps and pool heating equipment, and make its recommendation to the Village Commission. After receiving the recommendation from the Planning and Zoning Board, the City Village Commission will hold a public hearing may to consider the request for the non-hardship variance. ~~requests for non-use variances restrictions and yard requirements for the location and construction of fences, nonpermanent carports, screen enclosures, sheds, awnings and air conditioning compressors, swimming pool pumps and pool heating equipment.~~

B. The Planning and Zoning Board may make a recommendation for approval to the Village Commission if the Board finds:

1. The variance will be in harmony with the general appearance and character of the community;
2. The variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
3. The improvement is designed and arranged on the site in a manner that minimizes aerial and visual impact on the adjacent residences.

C. The Commission may grant such variance requests if the Commission finds:

1. The variance will be in harmony with the general appearance and character of the community;
2. The variance will not be injurious to the area involved or otherwise detrimental to the public welfare; and
3. The improvement is designed and arranged on the site in a manner that minimizes aerial and visual impact on the adjacent residences.

~~C. As a courtesy, notice of the meeting at which the non-use non-hardship variance request is to be considered shall be provided in writing by regular mail posted at least seven (7) days prior to the meeting to all property owners and residents of property abutting the subject property and immediately across the street.~~

§ 7.5 – Lapse of special or variance Expiration of hardship and non-hardship variance.

After the Village Commission has ~~approved a special use exception or~~ granted a hardship or non-hardship variance, the ~~special use exception or~~ variance so approved or granted shall ~~lapse~~ expire after ~~the expiration of one year~~ two years, measured from the date of final Commission action, if no substantial construction or change of use has taken place in accordance with the plans for which the ~~special use exception or~~ variance was granted.

§ 7.6 – Reapplication for a hardship and non-hardship variance.

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

CHAPTER VIII, ZONING

DIVISION 1, ZONING DISTRICTS ESTABLISHED; ZONING MAP

§ 8.1 – Title.

This chapter shall be known as the “Zoning Regulations for the City Village of North Bay Village, Florida; 4983 2014 Revision.”

§ 8.2 – Purpose and ~~objectives~~ intent.

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

§ 8.3 – Establishment of zoning districts.

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

A. *Single-Family Residential Districts.*

1. RS-1 Low Density Single-Family Residential District (See § ~~152-026~~ 8.10.A).
2. RS-2 Medium Density Single-Family Residential District (See § ~~152-027~~ 8.10.B).

B. *Multiple Family Residential Districts.*

1. RM-40 Medium Density Multiple Family Residential District (See § ~~152-028~~ 8.10.C).
2. RM-70 High Density Multiple Family Residential District (See § ~~152-029~~ 8.10.D).

C. ~~Commercial District, 1.~~ *CG General Commercial District* (See § ~~152-030~~ 8.10.E).

~~2. CL Limited Commercial District (See § 152-031).~~ *We are recommending to eliminate the CL District; rezone all CL properties to CG and include in the CG District uses now allowed in the CL District but not presently allowed in the CG District. This means that hotels would be allowed on all properties fronting along Kennedy Cswy. on Treasure Island and those on the north side of Kennedy Cswy. on Harbor Island*

§ 8.4 – Reference to district names.

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

§ 8.5 – Identification of district maps.

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

§ 8.6 – Publication of district maps.

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

§ 8.7 – Interpretation of district boundaries

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

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

§ 8.8 – New land area.

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

DIVISION 2, APPLICATION OF DISTRICT REGULATIONS

§ 8.9 – General regulations.

A. Compliance with regulations.

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

B. *Encroachment reduction of lot area.*

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

C. *Accessory buildings; prior construction.* No accessory building, structure, or dock shall be constructed upon a lot until the construction of the main use building has actually commenced. No accessory building shall be used unless the main use building on the lot is also being used.

D. *Location on a lot required.* Every building or structure hereafter erected, moved, or structurally altered shall be located on a lot as herein defined, and except as hereinafter provided, in no case shall there be more than one ~~main~~ principal building on one lot.

§ 8.10 – District regulations.

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

1. Purpose and intent.

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

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. Use exceptions as may be approved under § 8.11

4. *Site development standards.*

a. Minimum lot size:

Area—7,000 square feet
Frontage—70 feet

b. Minimum yard setbacks:

Setback	Distance (Feet)
Front	20
Side (corner)	20
Side (interior)	10
Rear	15
Waterfront	25

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

c. Maximum building height:

~~Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed a cumulative total of 35 feet.~~

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—2,000 square feet

Two story—2,600 square feet

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

1. Purpose and intent.

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

2. Uses permitted.

Single-family residential dwellings including duly licensed home occupation.

3. Use exceptions as may be approved under § 8.11

4. *Site development standards.*

a. Minimum lot size:

Area—6,000 square feet

Frontage—60 feet

b. Minimum yard setbacks:

Setback	Distance (Feet)
Front	20
Side (corner)	15
Side (interior)	7½
Rear	15
Waterfront	25

c. Maximum building height:

~~Three stories, or 25 feet plus the required FEMA base flood elevation, neither to exceed a cumulative total of 35 feet.~~

Three stories, not to exceed 35 feet above grade.

d. Minimum floor area:

One story—1,500 square feet

Two story—2,000 square feet

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

1. Purpose and intent.

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

2. Uses permitted.

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

3. Site development standards.

a. Minimum lot size.

Area—10,000 square feet

Frontage—100 feet

b. Minimum yard setbacks.

Setback	Distance (Feet)
Front	25
Side (corner)	25
Side (interior)	20
Rear	15
Waterfront	25
Adjacent single-family structure	100

c. Maximum density.

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

Unit Type	Required Lot Area (Sq. Ft./Unit)	Density (Units/Acre)
Efficiency	1,085	40.1
One-bedroom	1,085	40.1
Two-bedroom	1,200	36.3
Three-bedroom or larger	1320	33.0

d. Maximum building height.

45 feet or four (4) stories, whichever is less

e. Exclusion of grade level parking from height limitation.

(1) ~~However, a~~ A grade level of parking, not exceeding ten (10) feet in height, shall not be included in this height limitation.

(2) The grade level parking floor may include other nonresidential uses, including laundry rooms, recreational rooms, storage rooms, and an office for building management.

f. Minimum pervious area: 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.

g. Minimum floor area.

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

4. Single-family homes approved under the provisions of § 8.11 consistent with the setback provisions of the RS-1 (Low Density Single-Family Residential District).

5. ~~Special uses permitted upon approval of the City Commission in accordance with the provisions pertaining to use exceptions:~~ Use exceptions as may be approved under § 8.11.

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

1. Purpose and intent.

The purpose of this district is to provide for high-density multi-family residential structures together with other principal uses as may be approved as use exceptions and such accessory uses as may be necessary and compatible.

2. Use permitted.

- a. Multi-family residential dwellings including duly licensed home occupation.
- b. Management offices within structures containing eight (8) or more dwelling units or guest rooms.
- c. Office retail and service commercial facilities of an ancillary nature within structures containing 100 or more dwelling units or guest rooms subject to the following conditions:
 - (1) Access to such nonresidential facilities shall be only inside the building.
 - (2) There shall be no external advertising signs, display windows or entrances, provided, however, that
 - (3) Within a building containing 400 or more dwelling units, entrances, external signs and display windows are permitted under the following conditions which:
 - (a) The signs do not abut or face a public right-of-way and cannot be read from the public right-of-way; shall be permitted provided further that
 - (b) Such external signs shall be affixed flat against the facade or awning canopy of the commercial facility;
 - (c) Such external signs shall not exceed in area ten percent of the area of the facade of the facility;
 - (d) Such external signs shall be compatible as to materials, background and style with all adjacent and contiguous commercial facilities, and
 - (e) Such external signs shall not be self-illuminated, "activated", "animated", "flashing", or "beacon light" signs as defined in ~~§ 152.076~~ §11.2 of the LDC Code.

3. Site development standards.

a. Minimum lot size.

Area—27,000 square feet; Frontage—75 feet

b. Minimum yard setbacks.

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

~~The total side setback area free of structures at the ground level shall be at least 60 feet.~~

- e. Maximum density.

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

Unit Type	Required Lot Area (Sq. Ft./Unit)	Density (Units/Acre)
Efficiency	620 <u>623</u>	70.3 <u>70.0</u>
One-bedroom	620 <u>623</u>	70.3 <u>70.0</u>
Two-bedroom	685	63.6
Three-bedroom or larger	750	58.1

- d. Maximum building height: 150 feet or 15 stories, whichever is less.
- e. ~~A maximum of four stories may be utilized for a parking structure. (See subsection 7 below.)~~
- e. Minimum pervious area: Twenty percent (20%) of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.
- f. Minimum floor area:

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

- g. Minimum boardwalk/baywalk accessibility criteria.
 - (1) Properties contiguous to Biscayne Bay and its natural tributaries shall provide a public access boardwalk/baywalk in the riparian right-of-way or an upland shoreline access easement adjacent to and parallel to the riparian right-of-way.
 - (2) These properties shall also provide a connective public easement connecting contiguous properties and the public right-of-way to these ~~building~~ shoreline access areas.

4. Height bonus.

- a. The following maximum building height bonuses are permitted in the RM-70 District when any of the design bonus alternatives listed in ~~8(A)§ 4.c.(1)~~ through ~~8(H) §(4).c.(6)~~ are incorporated into proposed project and the incorporated alternatives are subsequently approved by the City Village Commission upon recommendation of the Planning and Zoning Board.
- b. Bonus approval shall be done at the time of Site Plan Review as required by § 5.8.B.9 152.105(C)(9). Each bonus alternative may be claimed once for a development and multiple awards for the same bonus feature shall not be permitted.
- c. The City Village Commission may grant bonuses subsequent to a public hearing when it is determined by the Commission that the proposed bonus amenities are substantive in nature, contribute to an overall project design which takes into account the public's critical interests in new development and where the proposed plan is otherwise in substantial conformity with the City's Village's Comprehensive Plan.

(1) Twenty-foot height bonus.

An additional impact fee of \$1,500.00 per unit in the building shall be paid to the City of North Bay Village for beautification of the John F. Kennedy Causeway (State Road 934). This fee shall be set towards a Causeway Beautification Fund and/or

(2) Twenty-foot height bonus.

A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the construction of a City-wide boardwalk. This fee shall be set towards a Boardwalk Fund and/or

(3) Twenty-foot height bonus.

A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the remodeling of the entrances to the islands. This fee shall be set towards an island entrance Remodeling Fund and/or

(4) Ten-foot height bonus.

A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for providing art in public places. This bonus is applicable only in conjunction with one of the above three-mentioned bonuses. This fee shall be set towards an Art in Public Places Fund and/or

(5) Ten-foot height bonus.

A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for the planting of trees for the interior island streets. This fee shall be set towards a tree fund for the interior island streets and/or

(6) Ten-foot height bonus.

A developer shall be required to pay a fee of \$750.00 per unit in the building, which shall be utilized for sidewalk enhancement, as well as the replacement of walkway areas from plain concrete to brick pavers. This fee shall be set towards a sidewalk enhancement fund

5. Density bonus.

a. Each parcel shall have the ability to purchase additional buildable units from the City of North Bay Village in the following manner:

(1) for a price of \$40,000.00 per unit; or

(2) provision of two (2) parking spaces per bonus unit, said spaces to be in the form of surface parking, or ground floor parking within a garage, located on the parcel and such parking spaces shall be labeled as being available at all times to the general public.

b. These units shall be derived from land currently owned by the City village, which will not be developed into residential buildings in the future.

c. ~~The money from these~~ Any money realized by the village for such units shall be utilized for future City village parks and for the purchase of land for additional open green space.

d. These units are to come from the development rights of City Village Hall as well as the public works property on Treasure Island.

e. The total buildable units are: 129 Efficiencies; 129 1-Bedroom Units; 117 2-Bedroom Units; 106 3-Bedroom Units.

- f. Monies due from development under the bonus participation program shall be paid to the City of North Bay Village within 90 days of site plan approval by the City Village Commission. ~~Thereafter~~ After payment of the monies due or construction and approval by the village of the public parking spaces, the appropriate number of units will be included in the maximum number of units buildable on ~~deemed to~~ the property. This fee shall be set towards a City Village Park Fund.

6. Allocation of funds.

Funds paid to the City of North Bay Village as a result of the bonus participation program shall be transferred from all accounts created for the purposes listed herein.

~~*Whichever is less.~~

7. Additional required features and requirements.

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

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

a. Purpose and intent.

This section recognizes that certain parcels exist in the RM-70 District which do not meet the minimum lot size requirements set forth in ~~§ 152.029~~ § 8.10. to permit a building to be erected, converted, enlarged, reconstructed, moved or structurally altered (~~undersized parcels~~). Some of said parcels are improved and some unimproved. The purpose of this section is to establish criteria whereby undersized parcels may be put to reasonable use, consistent with the City's Comprehensive ~~Master~~ Plan for development and in furtherance of a policy which discourages overdevelopment and urban congestion.

b. Uses permitted.

Uses permitted shall be the same as permitted in ~~§ 152.029(B)(1)~~ § 8.10.D.2

c. Site development standards:

- (1) Minimum lot size: ~~shall be 40 percent of the area prescribed and 40 percent of the front footage requirement of § 152.029(C)(1) (minimum undersized parcels).~~

Area —10,800 square feet

Frontage—30 feet

- (2) Minimum yard setbacks shall be the same as specified in ~~§ 152.029(C)(2)~~ § 8.10.D.3.b provided that existing buildings, which were completed prior to April 1, 1983, (existing structures) and were lawfully constructed so that any existing setback encroaches into the setback area prescribed by current law but not in excess of 33 1/3 percent of the current setback requirements (nonconforming setback) shall be subject to the provisions of subsection ~~(C)(4)~~ c.(4) hereafter.
- (3) Maximum density shall be as prescribed in ~~§ 152.029(C)(3)~~ § 8.10.D.3.c except that
- (a) on minimum undersized parcels of 10,800 square feet in area and frontage of 30 feet, there shall be a maximum of six (6) residential units;
- (b) ~~in case of undersized parcels which exceed the minimum area and frontage prescribed in subsection (C)(1) above, in addition to six units there shall be allowed one unit for each whole 750 square feet of land area in excess of the minimum area prescribed in subsection (C)(1).~~
- in the case of undersized parcels which exceed the minimum required lot area of 10,800 square feet and the minimum required frontage of 30 feet, in addition to six (6) units there shall be allowed one (1) unit for each whole 750 square feet of land area in excess of the minimum required lot area of 10,800 square feet
- (4) Maximum building height on undersized parcels.
- (a) The maximum building height on minimum undersized parcels shall be three (3) stories or 36 feet above code-approved grade, whichever is less.
- ~~However~~ Except, in the event an existing structure is the subject of a nonconforming setback, the new covered or roofed area of the third floor (if there is one) shall be reduced in area on the basis of one and five-tenths percent (1.5%) of the area of the second floor for each foot of nonconforming encroachment into the setback area.
- (b) ~~The maximum building height on undersized parcels which exceed the minimum areas and frontage provided in § 152.029(C)(1) shall be one floor for each whole 1,750 square feet of land area in excess of the minimum area prescribed in subsection (C)(1) not to exceed six stories or 72 feet above code approved grade, whichever is less.~~
- The maximum building height on undersized parcels which exceed the minimum required lot area of 10,800 square feet and minimum frontage of 30 feet shall be one (1) floor for each whole 1,750 square feet of land area in excess of the minimum required lot area of 10,800 square feet, not to exceed six (6) stories or 72 feet above code approved grade, whichever is less.
- (c) Provided further, as to buildings newly constructed under the provisions of this Code LDC, grade level beneath the building parking not exceeding ten (10) feet in height shall not be included in the height limitation herein imposed.
- (5) Minimum pervious area: ~~The provisions of § 152.028(C)(5) are adopted and shall apply to buildings under this section.~~ 25 percent of the total lot area shall be retained as pervious area and shall be landscaped and maintained.
- (6) Minimum floor area shall be as prescribed in § 8.10.D.3.g ~~The provisions of § 152.029(C)(6) are adopted and shall apply to buildings under this section~~

- (7) Offstreet parking: The offstreet parking requirements as set forth in ~~§§ 152.040 through 152.044~~ §9.1 through §9.3 shall apply to buildings under this section except that every dwelling unit, regardless of size, shall require two (2) parking spaces.
- (8) All Village and County landscaping requirements of ~~landscaping of the City and county codes~~ shall be fully applicable to buildings under this section.

9. Planned Residential Development (PRD) Zoning Overlay.

a. Purpose and intent.

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

b. Compatibility with existing zoning and existing development.

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

c. Ownership requirements.

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

d. Development parameters.

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

- (1) The subject property shall be zoned for RM-70 multi-family use;
- (2) The subject property shall contain a minimum of one legally platted lot for the construction of no less than ten (10) residential units and twenty (20) off-street parking spaces, ~~(off-street)~~, or two (2), but not more than three (3), platted lots contiguous, as of the effective date of this section [Jan. 22, 2002];
- (3) The subject property shall be deemed one (1) parcel of land and in the event that two (2) or more platted lots shall constitute a PRD, the applicant shall submit a Unity of Title in a form acceptable to the Village Attorney;
- (4) The following definitions shall apply to this section:
 - (a) *Floor area ratio (FAR)*. Total gross area of a building or buildings, excluding parking garage structure, on any lot divided by the area of the lots. ~~No structure shall contain a FAR of greater than 3.0 for one lot; 3.75 for two lots; and 4.00 for three lots.~~

- (b) *Gross floor area.* Total area of all floors of a building that are enclosed including common areas such as elevators (area of shafts at ground floor only), stairs (except open stairways and enclosed stairways which are means of egress required by the fire department), corridors, interior recreation areas, storage, cabana, lobby, restrooms, etc. All these items are excluded: The garage structure with any required means of egress, and any open but covered walkways, exterior balconies, open decks, and terraces at the recreational area.
- ~~(c) *Restricted use of floor area.* No more than one-half of a floor area used for amenities can be allocated for dwelling units.~~
- ~~(d) *Building height.* No structure shall exceed 170 feet in overall height above base flood elevation (BFE) including all structures for stairways, storage, mechanical, elevator, recreational uses, et cetera. The total area of these uses shall not exceed 30 percent of the footprint of the last residential floor. Moreover, an elevator shaft may exceed 160 feet in height based on evidence of necessity as a result of requirements for elevator construction. The roof of any residential dwelling unit shall not be higher than 150 feet from BFE. **Note** paragraphs (c) and (d), above, have been relocated to the Building Height subsection on the next page.~~
- (c) *Pedestal.* Portion of a building that contains the parking level entry lobby, office, manager's unit, storage, mechanical room, recreational facilities, and parking structures.
- (d) *Tower.* Portion of the building that contains residential units, parking structures, and may also include recreational facilities.
- (5) Restrictions on floor area.
 - (a) No structure shall contain a FAR of greater than 3.0 for one lot; 3.75 for two lots; and 4.00 for three lots.
 - (b) No more than one-half of a floor area used for amenities can be allocated for dwelling units.
- e. Permitted uses. ~~The following uses are permitted in the PRD: Multifamily residential and recreational facilities ancillary thereof thereto.~~
- f. Site development standards.
 - (1) Standard Building Setbacks ~~Setbacks.~~
 - (a) Setbacks for a new building without pedestal and tower design shall follow setback requirements outlined in the RM-70 Multi-family High Density Residential Zoning District: shall be as set forth in the following table: **Note: These are RM 70 setbacks.**

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

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

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

(2) *Flex setback.*

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

(b) i. ~~The total floor area of encroachment (which shall exclude a maximum of 25 percent of the total square footage of all the balconies on the plan), into the setbacks must be adjusted by deducting it from the buildable "box" allowed under the standard setback regulations provided below.~~

The aggregate square footage of the floor area encroaching into the setback must be adjusted by deducting it from the buildable "box" allowed under the preceding standard setback regulations

ii. Up to 25 percent (25%) of the square footage of all balconies shown on the plan as encroaching into the setback may be excluded from the calculation of the total square footage of the encroachment.

iii. ~~and~~ In no instance is the designer allowed to build more area per floor than what is permitted under ~~this~~ the standard buildable "box".

iv. ~~and in no instance may any wall length which encroaches into any side yard setback be longer than one third of the length of a wall (which shall not include balconies with railings or other physical containment which do not exceed 42 inches in height) which is permitted under the buildable box and the standard setback regulations provided below.~~

In no instance may any wall length, which encroaches into any side yard setback, be longer than one-third of the length of a wall which is permitted under the buildable "box" and the standard setback regulations. Balconies with railings or other physical containment, which do not exceed 42 inches in height are not included in the measurement of the wall length.

v. The length of wall measurement shall be made at the point of maximum encroachment into the flex setback area.

(3) *Building height.*

(a) No structure shall exceed 170 feet in overall height above base flood elevation (BFE) including all structures for stairways, storage, mechanical, elevator, recreational uses, et cetera.

i. ~~The total area of these uses~~ stairways, storage, mechanical, elevator, recreational uses, et cetera shall not exceed 30 percent of the footprint of the last residential floor.

- (b) No structure shall exceed 150 feet from base flood elevation to the roof of the last residential floor and 160 feet for the overall height of the structure except that an elevator shaft may exceed 160 feet in height based on evidence of necessity as a result of requirements for elevator construction.
 - (c) No Pedestal shall exceed 30 feet in height from grade.
- (4) *Off-street parking.*
- (a) ~~Off-street parking shall be required on a basis of two spaces per residential unit, and such other requirements as defined in section 152.042 except as defined herein. as set forth for residential uses under~~ **Section 9.3.C.**
 - (b) All parking spaces must be screened from ground level view.
 - (c) ~~Design. A standard space shall be a minimum of nine feet by 18 feet zero inches long, except for parallel parking in which the space shall be nine feet six inches wide by 21 feet zero inches long. All~~ parking spaces must be designed to meet the requirements of **Section 9.3.E.**
 - (d) The driveway required in 90-degree parking shall be a minimum of 22 feet zero inches wide. ~~Not less than two percent of required parking spaces shall be allocated for handicapped usage. The parking design for handicapped spaces shall be consistent with applicable state standards.~~
- (5) *Entrance feature/porte cochere.*
- (a) A covered/sheltered entrance feature with a vertical clearance of at least fourteen (14) feet shall be permitted to be located up to the front property line. ~~Fourteen feet of vertical clearance shall be provided.~~
 - (b) If loading spaces are provided at this location, 14½ feet of vertical clearance shall be provided.
 - (c) Columns may be provided to support a porte cochere.
- (6) *Balconies.*
- (a) Exterior balconies/terraces and covered walkways, excluding rooftops and other non-covered areas, may extend into setbacks a maximum of 25 percent of the allowable setback measurement but may not extend beyond the pedestal setback.
 - (b) Balconies projecting into setbacks shall be deemed as encroachments herein, but shall not be calculated as part of the floor area ratio.
 - (c) Notwithstanding anything herein to the contrary, in no event shall the total square footage of balconies exceed more than 25 percent of the total square footage of the buildable box.
- (7) *Landscape requirements. (Refer also to Ch. 18, Miami-Dade Landscape Code.)*
- (a) A minimum of 30 percent of the exposed roof deck of the pedestal and any open areas with amenities shall be landscaped,
 - (b) And in addition "hardscape" (pavers, fountains, awnings, etc.) may be permitted if approved by the Village.
 - (c) An applicant shall be required to submit a detailed landscape plan to the Village. The landscape plan shall be sensitive to surrounding properties and shall be utilized to enhance the subject property.

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

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

g. Application procedure. The applicant shall submit an application to the Village Manager, or his/her designee, on a form(s) prescribed by the Village Manager. The Village Manager shall require at least the following information which shall be considered the PRD application:

(1) *Letter of intent*;

(2) *Payment of \$5,000.00 development review application fee for each application submitted. Fees incurred by the Village for special planning and/or legal consultant services during the development plan approval process shall be reimbursed to the Village by the applicant*;

(3) A detailed site plan showing dimensions of building(s), structure(s), setback(s), open space(s), landscaping and off-street parking. The landscaping plan shall provide buffering and/or masking of all parking facilities;

(4) Proposed floor plans and elevations (including signage) for all buildings and structures encompassing the size, placement and number of units;

(5) A complete list of uses and the square footage for each use;

(6) A certified copy of a land survey;

(7) Detailed calculations of water consumption increase and calculation of wastewater;

(8) Any other documentation as the Village Manager, or his/her designee, reasonably determines is necessary to properly review the proposed project; and

(9) Within ten days prior to the Planning and Zoning Board public hearing, the applicant shall furnish to the Village Manager, or his/her designee to make available for viewing

(a) an architectural model built to scale and photographs depicting same or a

(b) digital model on DVD depicting the proposed lot and structure including elevations all in relation to adjoining properties and structures thereon.

(c) Said model shall be retrieved by the developer within thirty (30) calendar days following the final public hearing before the Village Commission, and the DVD and photographs depicting the model shall become a part of the public records.

(d) Said model shall demonstrate the proposed structure as well as existing structures on either side. The applicant shall affirmatively demonstrate that all setbacks for the new structure shall not conflict with the existing or approved structure on either side of the proposed structure.

- h. Public hearing procedure. At a public hearing, the applicant shall have the burden of proof in demonstrating that the PRD application complies with the purpose and intent of the PRD ordinance. In determining whether to grant approval of the PRD application, with or without appropriate and necessary conditions and safeguards, the Planning and Zoning Board and Village Commission shall determine whether the application complies with the purpose and intent of this section and shall make the following findings:
 - (1) Whether the application is consistent with the Village's Comprehensive Plan.
 - (2) Whether the proposed development will have a favorable effect on the economy of the Village.
 - (3) Whether the proposed development application will generate or result in excessive noise or traffic.
 - (4) Whether the proposed development will cause an undue or excessive burden on public facilities and services, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities, which have been constructed, or which are planned or budgeted for construction.
 - (5) Whether the proposed development will tend to create a fire hazard or other dangerous conditions.
 - (6) Whether the proposed development will cause excessive overcrowding or concentration of people or population that would create evacuation concerns.
 - (7) Whether the proposed development will be compatible with the surrounding area and its development, and will demonstrate innovative design in order to minimize impact on surrounding properties.
 - (8) Whether the proposed development is a reasonable use of the property and results in a public benefit including, but not limited to, the enhancement of the subject real property and/or the redevelopment of structures in deteriorated or poor condition.
- i. Legal effect of PRD.
 - (1) Notwithstanding anything in the Code to the contrary, the approval of a PRD application shall be deemed an Overlay Zoning District to the existing zoning of the property.
 - (2) The approved PRD application shall encompass the approved development and the development regulations applicable to the property, and shall not be subject to any variances as may be required by other sections of this Code.
 - (3) However, the Village Commission shall be prohibited from approving a PRD application that would increase the intensity, density or height above that which is permitted in these PRD regulations.
 - (4) In the event that the owner wishes to modify an approved PRD application in any fashion which would increase the amount of square footage of the building(s) or lessen landscaping or open space, or create an undue burden on any public facilities, a new PRD application shall be filed and shall be subject to the terms and conditions of this section.
 - (5) In the further event that the owner shall not begin development pursuant to the approved PRD application for a period exceeding 12 months, the PRD designation shall lapse and the Overlay Zoning District for the subject property shall terminate.

- (6) The Village Commission shall have full authority to approve, approve with modifications, or deny a PRD application based upon its legislative determination that the application, as proposed or modified, serves and protects or does not serve and protect the public health, safety and welfare to at least an equivalent degree as the underlying zoning. Likewise, the Village Commission shall have authority to impose reasonable conditions and safeguards necessary to protect the public health, safety and welfare upon the approval of any PRD application.
- (7) Nothing contained in this section shall supersede or abrogate the express provisions of the Village's Comprehensive Plan, and all development orders issued by the Village shall not exceed the density limitations imposed by the Village's Comprehensive Plan. It shall be the duty of the Village Manager, or his/her designee, to advise the Village Commission whether any individual application will cause the density to exceed any density restrictions imposed by the Village's Comprehensive Plan.

E. *CG General Commercial District* [The CG and CL zoning districts are being merged. The following regulations are intended to apply to all areas now zoned CG or CL. The existing CG regulations form the basis for the regulations of this zoning district. Underlined text is new text that has been added. **Highlighting** identifies text from the CL District that has been transferred to the regulations currently in the CG District.

1. *Purpose and intent.* The purpose of this district is to encourage the development of general office, retail, service commercial, **tourist accommodations, and commercial-residential mixed use.**
2. *Uses permitted:*
 - (a) Bank or financial institution.
 - (b) Clinic or hospital.
 - (c) Dry cleaning substation.
 - (d) Lounge or nightclub (subject to the provisions of Chapter 111 of the Village Code).
 - (e) Medical or dental laboratory.
 - (f) Personal services establishments, including but not limited to shoe repair, barber and beauty shop, stock brokerage, employment agency, travel bureau, and messenger service.
 - (g) Post office.
 - (h) Professional offices, including but not limited to architecture, accounting, engineering, investigative, investment and tax counseling law, medicine, and real estate.
 - (i) Multi-family residential dwellings.**
 - (j) Tourist accommodations including hotels, motels, vacation rentals, and time sharing units.**
 - (k) Restaurants, coffee shops, or delicatessens; but not to include a fast order food establishment (See subsection E.3.a).
 - (l) Outdoor seating/dining shall be ~~permitted as follows~~ subject to the following requirements and conditions:
 - (1) An application must be filed with the Village Manager, or his/her designee, for administrative review and approval, which shall include layout of all tables, chairs, benches, and other furniture; pedestrian ingress and egress; location of refuse containers; and other elements necessary to illustrate the proposed outdoor seating/dining use and area (all drawings must be titled, indicate orientation, and be at an acceptable scale).
 - (2) Outdoor seating/dining areas and uses of the public right-of-way and/or any private property may be approved, denied, or approved with conditions, modifications, safeguards, or stipulations appropriately and reasonably related to the intent, purposes, standards, and requirements of the related regulations by the Village Manager. Such permit shall not be transferable in any manner and is strictly a conditional use permit, issued for a period of one year, renewable annually via payment of the annual occupational license fee for such outdoor seating/dining uses.
 - (3) The fee for outdoor dining/seating use and area will be charged annually in the amount of \$250.00; the permit fee shall be added to the occupational license fee for the main business.

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

If there is seating on one side of the sidewalk, a minimum of five feet of sidewalk must remain clear and unobstructed for pedestrian passage;
- (9) Outdoor seating/dining area on the public rights-of-way shall be open and unenclosed. No building structures of any kind shall be allowed in and over any portion of the outdoor seating/dining area located on public property.
- (10) Tables, chairs and all other furniture used in the operation of an outdoor seating/dining area shall not be anchored or restrained in any manner. Individual table umbrellas, planters, or other such non-stationary elements may be permitted within the outdoor seating/dining area and where applicable, shall have a minimum clearance height of seven feet above grade.
- (11) Outdoor seating/dining use and area shall be restricted to the length of the sidewalk or public right-of-way immediately fronting the cafe or other establishment
- (12) Outdoor seating/dining area shall be at the same elevation as the adjoining sidewalk or public right-of-way.
- (13) Carts and trays for serving food are permitted in the outdoor seating/dining area.
- (14) Outdoor seating/dining use and area shall not be provided with amplified sound of any kind.
- (15) Outdoor seating/dining areas may serve alcoholic beverages where such service is strictly incidental to the service of food and from a service bar only; provided no entertainment of any kind is furnished. No sign of any type or character shall be exhibited or displayed to the outside denoting that alcoholic beverages are obtainable within.

- (16) Any administrative decision may be appealed to the Village Commission in accordance with the requirements of this Code.
 - (17) The hours of operation shall coincide with that of the primary restaurant.
 - (m) Retail sales establishments, including but not limited to the sale of appliances, books, stationery, drugs, hardware, liquor, groceries, meats, produce and fish; however, such retail sales shall be restricted to merchandise stored and displayed within the main structure.
 - (n) Radio and television transmitting station and studio.
 - (o) Storage facilities in connection with permitted uses or non-industrial mini-storage facilities in conjunction with other retail, commercial or mixed uses, including the rental of motor vehicles and trailers consistent with off-street parking restrictions (§ 152.041(C)(3)(a)) for self-hauling purposes and the storage of said vehicles on premises, subject to site plan approval by the Village Commission; provided, however, that all such material, including waste and cooling systems and the above described motor vehicles and trailers shall be stored or erected entirely within the walls of a building. Such rental vehicles shall not be over 30 feet in length. Parking shall be provided for the storage facility portion of any mixed use facility at the rate of one space for every 8,000 square feet of storage area.
 - (p) Studios for artists, photographers, sculptors, or musicians, including: the teaching of art, music, dancing, or artistic instruction.
3. *Special uses permitted.* Uses permitted upon approval of the Village Commission in accordance with the provisions pertaining to use exceptions (See §8.11).
- a. Fast order food establishments.
 - b. Marinas, provided that the following provisions are adhered to:
 - (1) No docks or piers, including mooring piles, catwalks, and other appurtenances, shall be constructed closer than ten feet to any adjacent property line.
 - (2) In no case shall a dock or pier project more than ten percent into the width of any waterway.
 - (3) Where a marina is constructed separately from any other use, 50 square feet of landscaped open space shall be required per boat slip, 50 percent of which shall be pervious area.
 - (4) Fire prevention and fire control equipment shall be provided as required by Chapter 3805.5 through 3807.26 of the South Florida Building Code.
 - (5) In conjunction with the dockage of moorage of vessels, the following water-related activities, vessels and structures are prohibited:
 - (a) Commercial vessels.
 - (b) Haul-out facilities for major boat repair or overhaul work.
 - (c) Unscreened storage of boating supplies or accessories in the required front yard setback area.
 - (d) Permanent live-aboard vessels except as required for work or security purposes.
 - (6) All the requirements, standards, and regulations of §§ 150.01 through 150.03, 150.10 through 150.12 and 150.15 through 15.21 of the Village Code shall be complied with.

- c. Mixed-use commercial and multifamily structures, provided they conform with all site development standards as set forth under § 152.029(C). Commercial uses located in mixed-use developments shall not be subject to the requirements of § 152.029(B)(3). the following requirements and standards:

(1) Minimum lot size of 27,000 square feet.

(2) Minimum setbacks:

Location	Distance (Feet)
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Side, (each)	15, plus five feet for each story over three
Second side	20% of lot width
<u>Adjacent to single-family district</u>	<u>100</u>
Total side setback area free structure at the ground level shall be at least 60 feet.	

(3) Maximum building height: 150 feet or 15 stories, whichever is less, a maximum of four stories may be utilized for a parking structure.

(4) Minimum pervious a area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.

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

Unit Type	Required Lot Area (sf/unit)	Density (Units/Acre)
<u>Hotel or motel room with or without kitchen facilities</u>	<u>440</u>	<u>99.0</u>
Efficiency	620 <u>622</u>	70.3 <u>70.0</u>
One-bedroom	620 <u>622</u>	70.3 <u>70.0</u>
Two-bedroom	685	63.6
Three or more bedrooms	750	58.1

(6) Minimum floor area.

Unit type	Floor area (sf)
Efficiency or hotel room	600 <u>400</u>
One-bedroom	900 <u>750</u>
Two-bedroom	1,200 <u>1,000</u>
Three or more bedrooms	1,350 <u>1,150</u>

- (7) Minimum boardwalk/baywalk accessibility criteria: Properties contiguous to Biscayne Bay and its natural tributaries shall provide a public access boardwalk/baywalk in the riparian right-of-way or an upland shoreline access easement adjacent to and parallel to the riparian right-of-way. These properties shall also provide a connective public easement connecting contiguous properties and the public right-of-way to these building shoreline access areas.
- (8) Height bonus. The following maximum building height bonuses are permitted in the RM-70 District when any of the design bonus alternatives listed in 8(A) through 8(H) are incorporated into proposed project and the incorporated alternatives are subsequently approved by the Village Commission upon recommendation of the Planning & Zoning Board. Bonus approval shall be done at the time of Site Plan Review as required by 152.105(C)(9). Each bonus alternative may be claimed once for a development and multiple awards for the same bonus feature shall not be permitted.

The Village Commission may grant bonuses subsequent to a public hearing when it is determined by the Commission that the proposed bonus amenities are substantive in nature, contribute to an overall project design which takes into account the public's critical interests in new development and where the proposed plan is otherwise in substantial conformity with the Village's Comprehensive Plan.

- (a) *Twenty-foot height bonus.* An additional impact fee of \$1,500.00 per unit in the building shall be paid to North Bay Village for beautification of the John F. Kennedy Causeway (State Road 934). {This fee shall be set towards a Causeway Beautification Fund} and/or
- (b) *Twenty-foot height bonus.* A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the construction of a Village-wide boardwalk. {This fee shall be set towards a Boardwalk Fund} and/or
- (c) *Twenty-foot height bonus.* A developer shall pay a fee of \$1,500.00 per unit in the building, which shall be utilized for the remodeling of the entrances to the islands. {This fee shall be set towards an island entrance Remodeling Fund} and/or
- (d) *Ten-foot height bonus.* A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for providing art in public places. This bonus is applicable only in conjunction with one of the above three-mentioned bonuses. {This fee shall be set towards an Art in Public Places Fund} and/or
- (e) *Ten-foot height bonus.* A developer shall pay a fee of \$750.00 per unit in the building, which shall be utilized for the planting of trees for the interior island streets. {This fee shall be set towards a tree fund for the interior island streets} and/or
- (f) *Ten-foot height bonus.* A developer shall be required to pay a fee of \$750.00 per unit in the building, which shall be utilized for sidewalk enhancement, as well as the replacement of walkway areas from plain concrete to brick pavers. {This fee shall be set towards a sidewalk enhancement fund}
- (g) *Reserved*

- (9) *Density bonus*. Each parcel shall have the ability to purchase additional buildable units from North Bay Village for a price of \$40,000.00 per unit. These units shall be derived from land currently owned by the Village, which will not be developed into residential buildings in the future. The money from these units shall be utilized for future Village parks and for the purchase of land for additional open green space. These units are to come from the development rights of Village Hall as well as the public works property on Treasure Island. The total buildable units are: 129 Efficiencies; 129 1-Bedroom Units; 117 2-Bedroom Units; 106 3-Bedroom Units. Monies due from development under the bonus participation program shall be paid to North Bay Village within 90 days of site plan approval by the Village Commission. Thereafter, the appropriate number of units will be deemed to the property. {This fee shall be set towards a Village Park Fund}.
- (10) Other requirements:
- (a) A Public access boardwalk as required by the Miami Dade County Shoreline Review Committee. (Developer shall dedicate an easement to the Village conveying the boardwalk and a public access corridor).
 - (b) All exterior paving surfaces, except for covered parking garages, shall be constructed of brick pavers.
 - (c) A water feature shall be provided in the front of each development.
 - (d) Developments shall comply with existing landscaping requirements, as well as changes implemented in the future to conform to contiguous developments and landscaping plans implemented for the causeway and interior island areas.
 - (e) Developments shall provide streetscape benches along the boardwalk areas.
 - (f) All parking garages shall be constructed with architectural features that hide them from public view. (glass, screening, greenery etc.).
 - (g) Lighting shall be provided in all areas in the front of development where trees are planted.
- (11) Funds paid to North Bay Village as a result of ~~the~~ any bonus participation program shall be transferred between all accounts created for the purposes listed herein.
- (d) Printing and publishing establishments, including blueprinting and photostating, provided that no such use shall occupy more than 1,500 square feet of gross floor area.
- (e) Service stations, provided that the following provisions are adhered to:
- (1) All structures shall be designed in a manner that is compatible with the overall environmental and architectural design goals of the community.
 - (2) All properties shall have at least 150 feet of frontage.
 - (3) All new and used merchandise shall be stored and displayed within the main structure except tires, accessories, and lubrication items, which may be maintained in movable or enclosed cabinets.
 - (4) No used or discarded automotive parts or equipment or permanently disabled or wrecked vehicles shall be located outside the main structure except within an enclosed trash storage area.
 - (5) Major repairs or engine overhauling or transmission repair, painting, body and fender repair, and tire recapping is not permitted.

- (6) The rental of heavy equipment and the sale or rental of merchandise not related to the motoring public, other than as specified herein, is excluded.
 - (7) The storage of up to ten rental trailers or automobiles is permitted, provided that the trailers or automobiles are backed up against a six-foot high wall, and located not less than 20 feet from any sidewalk, street, or driveway.
 - (8) Car washes are permitted as an ancillary use subject to being located 200 feet from residential uses and subject to hours of operation.
 - (9) Trash shall be stored in areas shielded from public view. Storage trash containers shall be enclosed and covered.
 - (10) Any lights provided to illuminate or advertise the service station, shall be installed and maintained in a manner so as not to create an undue glare on adjacent properties.
 - (11) Structures shall not occupy more than 30 percent of the total lot area.
 - (12) Driveways shall be permitted at the intersections of primary and secondary arterials, provided the construction of driveway entrances is within the curb return, but shall be at least five feet beyond the end of the curb return. At all intersections, whenever possible, combine driveways servicing both service station and adjacent uses, shall be designated and provided.
 - (13) Planter areas and tree wells shall be constructed and equipped with irrigation and drainage facilities and landscaped prior to final building inspection.
 - (14) Whenever the use abuts a residential district, a wall shall be erected along the property line eight feet in height.
 - (15) Service stations shall not be permitted within 300 feet of the property line of any church, synagogue, hospital, and school.
 - (16) No more than four service stations shall be permitted within the Village at any one time.
- (f) Theaters for the showing of motion pictures shall provide no less than 400 fixed seats. When the theater is to be used solely for activities of a performing art, or an event of a cultural or civic nature, a lesser number of seats may be required by the Commission.
 - (g) Yacht clubs, provided they have a minimum of 150 feet of water frontage and no main building is less than 4,000 square feet in gross floor area.
4. *Prohibited uses.* Boat storage facilities utilized for the purpose of storing boats shall be prohibited in the CG (General Commercial) District.

5. *Site development standards.*

<p>a. Minimum lot size: Area—10,000 sf Frontage—75 feet</p> <p>b. Minimum yard setbacks:</p>	
Location	Distance (Feet)
Kennedy Causeway (north side)	40
Kennedy Causeway (south side)	60
Other street frontages	25
Rear	25
Side, (each)	15, plus five feet for each story over three
<p>c. Maximum building height: 130 feet or 12 stories, whichever is less, two stories of which may be utilized for a parking structure.</p> <p>d. Minimum pervious area: 20 percent of the total parcel. The lot area at grade level shall be retained as pervious area and shall be landscaped.</p> <p>e. Refer also to Miami-Dade Landscaping requirements.</p>	

§ 8.11 – Use exceptions

A. *Purpose and intent.*

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

B. *Uses permitted.*

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

- (1) Day nursery.
- (2) Religious institution.
- (3) Private or commercially operated swimming pools or tennis courts, when not a permitted accessory use, and commercial recreational facilities.
- (4) Exposition center, civic center, art gallery.
- (5) Golf course, marina.
- (6) Public buildings and facilities.
- (7) Public utilities or public service uses, and appurtenances thereto.
- (8) Structural alterations to special uses, after these uses are approved by the Village Commission.
- (9) Other special uses as may be enumerated in specific zoning districts.
- (10) Reserved.

C. Expiration of use exception.

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

D. Reapplication for use exception.

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

DIVISION 3, SUPPLEMENTAL USE REGULATIONS

§ 8.12 – Supplemental Use Regulations

A. *Accessory uses and structures.*

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

(1) Permitted accessory uses by zoning district

(a) In all residential districts:

- (i) Private garages or carports. No solid wall exterior facades or enclosures are allowed, enclosures must create window facades proportional to the existing windows at the front of the home, and create a landscaped area in front of the enclosed garage of a depth of 24" inches and covering the width of the original garage opening; and such greenspace shall be cut out from any existing driveway material that may run up to the new enclosure, or enclosure may maintain a garage door facade.
- (ii) Private swimming pools, cabanas, whirlpools, saunas, spas and hot tubs.
- (iii) Private tennis, basketball or volleyball courts or other similar outdoor recreational uses.

(b) In all residential zoning districts

- (i) Television and radio antenna structures, except for those of a microwave relay or transmission nature, subject to the provisions of § 152.058.
- (ii) Caretaker or watchman quarters when such quarters are associated with an active construction project.
- (iii) Storage structures, provided no structure exceeds 150 square feet in gross floor area.
- (iv) Doghouse, pens, and other similar structures for the keeping of commonly accepted household pets, provided, however, the requirements of §§ 91.03 and 91.10 through 91.12 of the Village Code are complied with.
- (v) Disaster Shelters

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

- (a) No accessory structure shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized.

- (b) All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which they are located
 - (c) All accessory uses and structures shall comply with the site development standards applicable in the zoning district in which they are located, unless specifically authorized otherwise herein.
 - (d) All accessory uses shall be arranged and maintained so as not to encroach into any required yard setback area, unless specifically authorized otherwise within the provisions of this chapter.
 - (e) All accessory structures shall comply with all provisions of the South Florida Building Code, as amended.
- B. *Unusual and new uses.* Unless approved upon public hearing, the following uses or uses similar thereto shall not be permitted in any district:
- (1) Amusement rides and enterprises
 - (2) Amusement centers
 - (3) Auction market
 - (4) Auto truck or machinery salvage yards
 - (5) Boat salvage
 - (6) Carnival and Circuses
 - (7) Cemeteries
 - (8) Convalescent homes
 - (9) Dog kennel
 - (10) Funeral homes
 - (11) Heliports and helipads
 - (12) Homes for dependent children
 - (13) Junk yards
 - (14) Movie theaters (open air) or drive-in-theaters
 - (15) Nursing homes
 - (16) Palmists and psychic readers
 - (17) Pawnbrokers
 - (18) Satellite and communications structures. No new satellite or communications structure or devices shall be constructed along the 79th Street Causeway
 - (19) Adult ~~congregate~~ living facilities (AGLFs) as defined in F.S. § 400.402
 - (20) Public parking lot
 - (21) Temporary sales/marketing office approval for no more than 12 months
 - (22) ????

DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS

§ 8.13 – Supplemental Development Standards

A. *Awnings and canopies.*

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

B. Boats, docks and piers

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

1. No boat may be used or maintained for overnight sleeping or living purposes, as a place of residence, or for any commercial purpose.
2. No docks, piers, mooring posts, or combinations thereof, may project more than 25 feet from any bulkhead line, nor extend nearer than seven and one-half feet to any adjacent property line. A waiver may be granted by the Village Commission pursuant to Section 150.11(A), upon completion of a marine survey demonstrating the minimum distances from the seawall necessary to meet the minimum depth requirements, approved by DERM, and completed by

a licensed professional surveyor and mapper registered to practice in the State of Florida.

3. No temporary piers, floating docks, or similar temporary moorings shall be permitted.
4. All the regulations, standards, and requirements of Chapter 150 of the Village Code shall be complied with.
5. Barges and vessels shall be permitted in residential districts only for loading, unloading and on-site construction, in compliance with Chapter 150.

C. Clotheslines

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

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

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

E. Dumpster enclosures

1. Mechanical equipment is necessary to the function of the buildings, which comprise a successful development. Unfortunately, space must be found for components that are sometimes large, noisy and unsightly. Mechanical equipment, particularly when added after the building is in use, can interrupt the streetscape and public views, decreasing the comfort and livability throughout the area. Enclosures and mechanical rooms shall conform to the following criteria:
 - a. When associated with new construction or rehabilitation valued at more than 30 percent of the building value as determined by the building official:
 - i. Restaurant and/or drinking uses, trash and garbage facilities shall be within an enclosed, air-conditioned garbage room; and
 - ii. Commercial, office or multifamily uses, trash and garbage facilities shall be within an enclosed, cross-ventilated garbage room.
 - b. When located outside of the building, the trash and garbage facilities shall be enclosed within a decorative CBS, wood, metal or recycled products material, opaque structure. The structure (including opaque gates) shall be painted or finished to match the building appearance.
 - c. Dumpster enclosures shall be located in visually obscure areas of the site and shall be designed in a manner as to visually screen the dumpster from adjacent view, and shall include a dumpster locking device on containers that include food waste to prevent access to the dumpster by birds or rodents.
 - d. Dumpster enclosures shall be placed in such a manner as to allow sanitation trucks to pick up garbage in a manner they are designed for.
 - e. Roof-mounted mechanical equipment and elevator shafts shall be screened by a parapet wall or grilles, and shall be painted in muted colors or match the building, and shall not be visible from the street.
 - f. All service bays, mechanical (HVAC) equipment and delivery areas should be located away from and not visible from the streets, waterways, sidewalks, and adjacent properties.

- g. Service bays, ground-mounted air conditioning units, and other mechanical equipment shall be screened from public and on-site pedestrian view, and buffered.
- h. Exterior service bays and delivery areas should not be used for the storage of vehicles or materials.

F. Fences, walls and hedges

1. When required

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

2. Prohibitions

- a. No fence, wall, or hedge may be constructed, installed, or maintained within six feet of any fire hydrant or other emergency apparatus.
- b. No fence, wall, or hedge may be constructed, installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any fence which obstructs or obscures vision, or any wall or hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.
- c. No wall or fence shall exceed five feet in height within any required front yard setback, provided such fence or wall does not create a visual obstruction to pedestrian or vehicular traffic. Additionally, landscaping shall be required on the street side of any such wall or fence. Any concrete wall or concrete block wall shall be sustained in a finished condition. Hedges shall not exceed 12 feet in height in the RS-1 and RS-2 Districts.
- d. Walls and fences in the rear and side setbacks will be limited to a height of six feet. Hedge heights will be limited to twelve (12) feet in the front, rear and side setbacks in the RS-1 and RS-2 Districts, provided that such hedges do not interfere with vehicular traffic or visibility on public rights-of-way and are neatly trimmed. The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties in order avoid any hindrance to said neighboring property. Hedge planting is strictly prohibited within the Village right-of-way or easement

area.

- e. No ~~wood~~, chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, ~~or any vinyl-clad fencing~~ will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)
- f. Ornamental entrances, fountains, plant containers, and similar architectural features exceeding the wall height restriction will be permitted, provided that:
 - i. No such feature shall exceed in height the wall height restriction for that district plus three feet; and
 - ii. There shall be only one such feature in any front, side or rear yard, except that there may be two entrance gates.
- g. Planting of vegetation in easement areas shall conform to the following:
 - i. No trees may be planted within any easement or public right-of-way area as shown on the recorded plats of the various subdivisions of the Village ("easement areas"). Nothing in this section shall be construed to prohibit the planting of low growth landscaping in the easement or right-of-way areas ("easement landscaping"). Easement or right-of-way landscaping is subject to removal by the Village without notice in the event that this landscaping impedes access to these areas. The Village shall not be responsible for damage to the removed landscaping;
 - ii. Prior to planting such easement landscaping in easement areas, the property owner shall execute a permission for removal, release and indemnification agreement, in a form acceptable to the Village, pertaining to such easement.
- h. North Bay Island. The linear footage of any property's street front Village easement or right-of-way area must maintain a greenspace (pervious) area whereby the permissible paved area is to be limited to only 40 percent of that total linear footage. The protected greenspace shall be restricted from any paving materials including but not limited to asphalt, concrete, brick, pavers, gravel or solid cover of mulch. The depth of that protected pervious area must be maintained at full easement depth from the street to the property boundaries. Any paving of the property frontage beyond the easement area (within front yard), and greater than 40 percent of the permitted linear footage must create a green landscape facade to decrease the sight line of that paved surface from the street view.

All islands. Front yard area may be paved up to 40 percent of the total linear footage. The balance of footage may only be paved if a greenspace is created between the Village's sidewalk and the paved area, for a depth of no less than 48 inches, and heavily landscaped to create green landscape facade to decrease the sight line of that paved surface from the street.

- i. Nonconforming uses of land. The lawful use of land existing at the time of the passage of this ordinance or an amendment thereto, although such uses do not conform to the provisions of this ordinance, may be continued subject to the following provisions:
 - i. Front yard areas may not be increased in paved areas.
 - ii. All rights and obligations subject to the nonconforming use of the land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy.

3. General requirements

- a. Construction and materials. No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals. Fences which are erected with sheathing, pickets or slats on one side only shall have such materials placed on the side of the fence facing the adjacent property in such a manner as to conceal the structural elements of the fence from off premises view. Walls or fences constructed of concrete block shall be constructed so that the side facing away from the property on which the wall or fence is located shall be finished with stucco or some other approved material.
- b. Maintenance. All fences, walls, and hedges shall be maintained in a safe, attractive, and non-hazardous condition. Hedges shall not extend over or into the public right-of-way for the full height of the hedge.
- c. Maximum height.
 - i. No fence or wall shall exceed six feet in height and no hedge shall exceed six feet except as may be permitted or further restricted elsewhere in this section.
 - ii. The height of a wall, fence, or hedge shall be the vertical distance measured from the average elevation of the finished building site to the top of the wall, fence, or hedge. The average elevation shall be measured along the wall, fence, or hedge line that the same is to be placed. The land within the area which the wall, fence, or hedge is to be placed may not be increased or decreased to effect the permitted height unless the entire building site is to be graded to level off this area.

4. Temporary fence around construction site. Nothing in this section shall be deemed to prohibit the erection and maintenance of a temporary fence around construction sites on which actual construction activity is taking place pursuant to a valid active building permit. The fence may exceed the height limitations in this zoning code if the fence is constructed of solid wood (or plywood) and is decorated in an attractive and artful design as shall be determined by the Village Beautification Board. In no event shall the fence exceed eight feet in height. Chain link fences shall not be the permitted around construction sites unless screening is used with the chain link to conceal construction materials from outside view.

5. Existing nonconforming fences and/or walls; removal.

- a. Intent. It is the intent of this division to recognize that the eventual elimination of existing fences that do not conform with the provisions of this chapter in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new fences that would violate the provisions of these regulations. It is also the intent of this division that there shall not be any unreasonable burden upon established private property rights.
- b. Continuance. Subject to the amortization schedule below, a nonconforming fence may be continued and shall be maintained in good condition, but shall not be:
 - i. Enlarged or changed to another nonconforming fence.
 - ii. Reestablished after its removal.
 - iii. Reestablished after being damaged or deteriorated whereby the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.
- c. It shall be the responsibility of the Code Enforcement Officer to make an inventory and a

record of all nonconforming fences and to serve notice on the owners or users of such fences within 30 days after the adoption of these regulations. The period of nonconformity shall nonetheless begin as of the date of the passing of this division. The inventory shall include the following

- i. Owner.
- ii. Type of fence
- iii. Location.
- iv. Reason for classification as nonconforming.
- v. Date fence was erected.

G. Height exceptions

Church steeples, bell towers, chimneys, tanks, decorative features, elevator lift housing, air conditioning units, or other mechanical or functional features may exceed zoning district height requirements, except as may be otherwise stipulated herein.

H. Outdoor dining and sidewalk cafes

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

constitutes a reasonable risk of potential liability to the Village.

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

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

I. Recreational and camping equipment

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

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

J. Safe and sanitary dwelling unit standards

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

1. All foundation walls shall be structurally sound, reasonably rodent-proof, and maintained in good repair.

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

K. Security guards

1. Definitions: The term security guards shall be synonymous with burglar guards and shall refer to steel bars commonly installed on the exterior or interior of doors or entryways and windows or breezeways or private residences, including free standing as well as multifamily residences and commercial and industrial buildings.
2. No security guards may be installed on the exterior of doors and entryways, windows and breezeways on front and side elevations of buildings which face a street or public right-of-way.
3. Continuance and removal of nonconforming security guards. A nonconforming security guard (one which is in existence at the effective date of this section) may be maintained and continued in use as a legal nonconforming use. However, no such security guard may be enlarged or replaced by another nonconforming device, and provided further that at such time as title to the property changes, said right of nonconforming use shall terminate and be of no further force and

effect. Title change shall be defined to mean any change of record ownership, other than by survival or by inheritance of a tenant by the entreaties.

L. Setback encroachments

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

1. Cornices, roof overhangs, window air conditioning units, awnings, chimneys, and sills may extend into a required side or rear yard, provided any such extension does not exceed 36 inches into the required yard. Balconies shall be permitted to project to a distance of 48 inches into the required yard, provided there is a seven-foot clear span.
2. A canopy shall be permitted to extend from the entrance door to the street line of any main building in multi-family residential districts. Where a sidewalk and curb exist, the canopy may extend to within 18 inches of the curb line. Such canopies shall not exceed 15 feet in width or 12 feet in height or be screened or enclosed in any manner, and shall provide an unobstructed, clear space between the grade and the bottom of the valance of at least six and one-half feet. Such canopies shall be required to be removed during hurricane warning periods.
3. A "garden window" is defined for this subsection as a premanufactured window unit constructed to form an interior shelf or shelves enclosed by glass to serve as a miniature greenhouse for the cultivation of small potted plants. A garden window shall be permitted to extend outward from the building into a setback. A perpendicular distance not to exceed 24 inches.
4. In the single-family zoning districts, ground mounted mechanical equipment, including air conditioning equipment, pool equipment, heat pumps, water heaters, generators and other similar equipment, may be placed in a side yard setback area; provided:
 - a. The unobstructed side setback area is not reduced by more than 50 percent of what is required in the zoning district regulations; and
 - b. The equipment placed in the setback area does not operate above 70 decibels; and
 - c. The equipment placed in the setback area does not exceed a height of 48 inches above ground level.

M. Swimming pools

1. Purpose and intent

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

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

2. Standards and requirements

- a. Any swimming pool operated by a residential homeowner or condominium association or by the resident of a single-family dwelling shall be permitted as an accessory use and shall exist only in conjunction with the principal use on the same

lot, subject to the regulations stated herein.

- b. A swimming pool may be permitted in any rear yard; however, in no instance shall it be located nearer than the following distances from any property line or structure:

Setback	Distance (Feet)
Front	25
Side (interior)	7.5
Rear or Easement	7.5
Structure	5
Side (corner)	15

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

3. Barriers for swimming pools, spas and hot tubs required

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

- a. Barrier construction
 - i. A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide direct access from the home to the swimming pool, spa or hot tub.
 - ii. Where a wall of a dwelling serves as part of the barrier, one of the following shall apply:
 - 1. All doors and windows providing direct access from the home to the pool, spa or hot tub shall be equipped with an exit alarm complying with this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code that has a minimum sound pressure rating of 85 dB.
 - 2. At 10 feet the exit alarm shall produce a continuous audible warning when the door and its screen are opened. The alarm shall sound immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm

shall be equipped with a manual means to temporarily deactivate the alarm for a single opening. Such deactivation shall last no more than 15 seconds. The deactivation switch shall be located at least 54 inches above the threshold of the door. Separate alarms are not required for each door or window if sensors wired to a central alarm sound when contact is broken at any opening.

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

3. When using a molding strip to attach the mesh to the vertical posts, this strip shall contain, at a minimum, #8 by percent-inch screws with a minimum of two screws at the top and two at the bottom with the remaining screws spaced a maximum of 6 inches apart on center.
 4. Patio deck sleeves (vertical post receptacles) placed inside the patio surface shall be of a nonconductive material.
 5. A latching device shall attach each barrier section at a height no lower than 45 inches above grade. Common latching devices which include, but are not limited to, devices that provide the security equal to or greater than that of a hook and eye type latch incorporating a spring actuated retaining level (commonly referred to as a safety gate hook).
 6. The bottom of the child mesh safety barrier shall not be more than 1 inch above the deck or installed surface (grade).
- v. The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier as herein described below. One end of a removable child barrier shall not be removable without the aid of tools. Openings in any barrier shall not allow passage of a 4-inch-diameter sphere.
 - vi. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool, spa or hot tub side of the fence. Spacing between vertical members shall not exceed $1\frac{3}{4}$ inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed $1\frac{3}{4}$ inches in width.
 - vii. Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than $1\frac{3}{4}$ inches.
 - viii. Solid barriers which do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
 - ix. Where an aboveground pool, spa or hot tub structure is used as a barrier or where the barrier is mounted on top of the pool, spa or hot tub structure, and the means of access is a ladder or steps, the ladder or steps either shall be capable of being secured, locked or removed to prevent access, or the ladder or steps shall be surrounded by a barrier which meets the requirements of this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter sphere.
 - x. Any permitted swimming pool may be enclosed by a screen enclosure, provided the enclosure is constructed of material which is 90 percent screening. Screen enclosures shall have the same minimum side setbacks as those stated above for swimming pools. ~~They may be located up to five feet from any rear property line except where an easement in excess of five feet exists, in which case the easement line will govern.~~ Standard screen enclosures which meet the requirements of ~~set forth in this chapter and chapter 151 of this Village's Code, as well as the Florida Building Code,~~ may be utilized as part of or all of the "barrier" and shall be considered a "non-

dwelling" wall.

- xi. Removable child barriers shall have one end of the barrier non-removable without the aid of tools. Removable child barriers must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may manage to penetrate the barrier from immediately falling into the water. Sufficiently away from the water's edge shall mean no less than 20 inches from the barrier to the water's edge. Dwelling or non-dwelling walls including screen enclosures, when used as part or all of the "barrier" and meeting the other barrier requirements, may be as close to the water's edge as permitted by this Code.
- xii. A barrier may not be located in a way that allows any permanent structure, equipment, or window that opens to provide access from the home to the swimming pool, spa and/or hot tub.

b. Access to swimming pools, spas and hot tubs

Access gates, when provided, shall be self-closing and ~~shall comply with the requirements of this chapter and chapter 151 of this Village's Code~~ and shall be equipped with a self-latching locking device located on the pool, spa or hot tub side of the gate. Where the device release is located no less than 54 inches from the bottom of the gate, the device release mechanism may be located on either side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap from the outside. Gates that provide access to the swimming pool, spa or hot tub must open outward away from the pool, spa or hot tub. The gates and barrier shall have no opening greater than ½ inch within 18 inches of the release mechanism.

c. Adjacent waterways as barriers

Permanent natural or permanent man-made features such as bulkheads, canals, lakes, navigable waterways, etc., adjacent to a public or private swimming pool, spa or hot tub may be permitted as a barrier when approved by the authority having jurisdiction. When evaluating such barrier features, the authority may perform on-site inspections and review evidence such as surveys, aerial photographs, water management agency standards and specifications, and any other similar documentation to verify, at a minimum, the following:

- i. The barrier feature is not subject to natural changes, deviations, or alterations and is capable of providing an equivalent level of protection as provided by the code.
- ii. The barrier feature clearly impedes, prohibits or restricts access to the swimming pool, spa or hot tub.

d. Schedule of penalties

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

N. Towers, antennas, poles and masts

1. Generally

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

Florida Building Code shall be observed.

a. Plans and specification required

Plans and specifications required. Plans and specifications for the structures listed above shall be submitted to the Building Official showing all dimensions, size, and kind of members, footings, and guy wires; the location, depth, and type of guy anchors and footings; the type and weight of the antenna, apparatus, or structure to be attached to or supported by the structure; and an application made for a permit.

b. Maximum height

The vertical height of any of the above structures shall not be greater than 90 percent of the horizontal distance from its base to the nearest adjacent street right-of-way line. Radio towers, where incidental to a business use in the commercial district, may extend to a height of 150 feet measured from ground elevation.

c. Poles, masts and towers for antenna used for amateur and citizen band radio stations

Poles, masts, and towers for supporting antenna used in the operation of amateur radio stations, citizen band radio stations, and citizen band radio stations licensed by the Federal Communications Commission shall be excepted from the above regulations and shall be governed by the following requirements:

- i. All poles, masts, towers, and beam array antennas shall be placed not less than five feet from a public right-of-way line or adjacent property line, or nearer than one foot from any easement.
- ii. All such installations shall conform to the requirements of the National Electrical Code and applicable FCC regulations, and be located not less than eight feet from any power line over 250 volts, including the beam elements or any part thereof.
- iii. Permits shall be required for the installation of any poles, masts, or towers over 20 feet above the roof of any structure to which they may be attached, and for any installation over 35 feet in height when erected from grade. Applications for permits shall be accompanied by plans and specifications, three copies showing all dimensions, size and kind of members, footings and guy wires; the location, depth and type of guy anchors and footings; and the type and weight of the antenna, apparatus or structure to be attached to or supported by the structure.
- iv. Poles shall be of an approved creosoted type or treated or painted with a chemical preservative and an outer coat of oil base paint before installation. The color shall match the surrounding development.
- v. The recommended depth of holes for various type poles shall be subject to acceptable engineering standards:

Pole Height Above-ground (feet)	Hole Depth In Firm Ground (feet)	Hole Depth In Rock Ground (feet)
16	3.5	3
20	4	3
25	5	3
35	6	4

50	7	0.5
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If the earth is damp or soggy, the depth of hole is to be increased by one foot. If carrying a beam, poles must be properly guyed, as is the case where the pulling effect of the wire antenna or weight of other installations will require guying.

- vi. Wood masts shall be chemically treated, painted with an outside coat of oil base paint, and suitably guyed at the top and middle in at least three different directions. Masts to support a beam, whether of wood or metal pipe, shall comply with all the applicable regulations in regard to the location, guying and the like, and the maximum allowable weight of antenna, rotator and components shall not exceed 150 pounds.
- vii. Towers of steel, iron or aluminum, whether of the rigid nondemountable type or the rigid, demountable type with the crank-up, crank-down and either the hinged base or swivel crank-over features shall carry no more weight on the top than specified by the manufacturers specifications.
- viii. In calculating the height of demountable type towers, the top of the lower rigid section shall be considered the top for the purpose of this section.
- ix. Beam array antennas shall be mounted so as to provide easy servicing and easy access for the removal at approach of hurricanes, or provide for the lowering of such beam.

2. Dish antennas

- a. Application. This section shall apply only to private noncommercial dish antennas as defined in subsection (B)(2). This section shall supplement and not repeal or modify the requirements of section 152.064(R).
- b. Definitions:
 - i. Dish antenna means a dish antenna intended for the purpose of receiving communications from orbiting satellites and other extraterrestrial sources, a low noise amplifier (L.N.A) which is situated at the focal point of the receiving component for the purpose of magnifying and transferring signals, a coaxial cable for the purpose of carrying signals to the interior of a building.
 - ii. A private noncommercial dish antenna is a dish antenna for a single-family residence which is erected solely for the use of its owners. Said antenna shall not be used for the purpose of obtaining revenue.
- c. Placement. Private noncommercial dish antennae may be permitted in North Bay Village provided:
 - i. They are located in the rear yard.
 - ii. They are placed no closer to any property boundary line than a distance equal to their height as measured from ground level to the top of the antenna but in no event closer than ten feet to said property lines.
 - iii. On corner properties, no portion of the apparatus may extend beyond the imaginary extension of the line of the house structure.
 - iv. Roof-mounted dish antennae shall not be permitted except on two-story

buildings with a flat roof, provided the antenna cannot be viewed from ground level, and in no instance is to exceed in height 15 [feet] above the roof.

- d. Dimensions. The height of dish antennas, on the ground, shall not exceed 15 feet from ground level nor shall their diameter exceed 12 feet.
 - e. Number allowed; color. Only one dish antenna shall be allowed per single-family house, and antennas shall be neutral in color, and one color only.
 - f. Anchorage. All dish antennae shall be anchored securely to the ground or structure in compliance with the requirements of the South Florida Building Code relative to structures.
 - g. Permit required. No dish antenna shall be erected until a permit has been issued by North Bay Village. All applications for a permit shall be accompanied by a site plan showing the proposed location of the antenna, the type, color, height and diameter of the antenna and the proposed landscaping.
 - h. Screening. A private noncommercial dish antenna shall be screened by landscaping on its sides so as to obscure its visibility from the abutting properties' ground view.
 - i. Once installed, dish antennas and related appurtenances must be maintained in good and operable condition, and the surrounding landscaping shall likewise be continuously maintained for the intended screening purpose.
 - j. Nonconforming uses. All dish antennas that are legally existing on October 23, 1990, shall be allowed to remain until such time that they may be replaced, or the cost of repairs exceeds 50 percent of the replacement at which time they shall conform in all respects to this section.
3. Screening of mechanical equipment

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

- a. Mechanical equipment located on the ground, such as air conditioning units, heating units, satellite dishes, irrigation pumps, propane tank displays and refilling areas, utilities lift stations and the like shall be screened from public view. Screening shall, at a minimum be at the same height as the equipment. Structural screening shall be architecturally integrated into the overall project design and shall be compatible, in terms of style, construction materials, colors, and finish, with the principle structure(s). Landscaping may be substituted for structural screening if plantings are compatible with the landscape plan for the project and are of such size and maturity as to be able to provide a fully opaque screen at time of planting.
- b. Equipment and appurtenances mounted on roof tops shall be kept to a minimum. All exposed roof top mounted equipment and appurtenances shall be fully screened from view from any public right-of-way. All screening shall, at a minimum be at the same height as the equipment and appurtenances. Screening shall be an integral part of the design of the building(s) and shall be architecturally consistent with the style, colors, construction materials and finish of the building(s).
- c. Painting of exposed appurtenances to blend with the color of adjacent materials of the building may be approved where utilization of approved roof designs precludes full screening of exposed surfaces.

Prohibited Signs

	NORTH BAY	Aventura	Bay Harbor	Coral Gables	Miami Shores	Sunny Isles	Surfside
	<p><i>Section 152.078(B)</i></p> <p>(1) Off-premise outdoor advertising display (commercial advertising) signs.</p> <p>(2) Signs within or upon public property and rights-of-way.</p> <p>(3) Pole (ground) signs projecting over rights-of-way.</p> <p>(4) Flashing, activated, and animated signs.</p> <p>(5) Pennants, streamers, spinners, advertising balloons and all other fluttering, spinning, or similar type signs and advertising devices.</p> <p>(6) Roof signs.</p> <p>(7) Snipe and sandwich signs.</p> <p>(8) Provided, however, that national flags and flags of political subdivisions of the United States; flags of bona fide civic, charitable, fraternal, and welfare organizations; banner signs; and, during nationally recognized holiday periods, pennants, banners, streamers, and other fluttering, spinning, or similar type advertising devices pertaining to said holiday periods, may be provided on a temporary basis as provided below in this subchapter.</p>	<p>(1) A sign that significantly covers, interrupts or disrupts the major architectural features of a building.</p> <p>(2) Abandoned signs.</p> <p>(3) Any sign not permitted by this section.</p> <p>(4) All signs located on or over public property or right-of-way, except those installed by governmental agencies.</p> <p>(5) Animated signs.</p> <p>(6) Any sign placed on or attached to utility poles except for the purpose of utility identification.</p> <p>(7) Any signs that could be confused with a traffic signal or traffic sign.</p> <p>(8) Any signs that in the opinion of the City Manager constitute a safety hazard.</p> <p>(9) Attention-getting devices.</p> <p>(10) Balloon signs.</p> <p>(11) Bare bulb signs.</p> <p>(12) Billboards, other than those lawfully existing on the effective date of Ordinance No. 97-12 and protected by F.S. § 479.15(2).</p> <p>(13) Box/cabinet wall signs utilizing internal illumination.</p> <p>(14) Buntings.</p> <p>(15) Bus bench/shelter signs.</p> <p>(16) Changeable copy signs except as specifically permitted under this section.</p> <p>(17) Signs erected or painted on fences or wall enclosures except as specifically permitted in this section.</p> <p>(18) Marquee signs, except as specifically permitted in this section.</p>	<p>(a) Billboards;</p> <p>(b) Signs of any nature on unimproved property, except as provided in section 17-2</p> <p>(c) Exterior signs made from paper, cardboard or cloth;</p> <p>(d) Signs referring to rates or special inducements; provided, however, that a sign may contain only the word "sale" plus two descriptive words and may not exceed 154 square inches. "</p> <p>(e) Signs advertising candidates for public office or public questions, except as provided in section 17-8</p> <p>(f) Flashing signs, flashing illumination (signs/bulbs), and exposed or visible gas-filled illuminating tubing ("neon tubing")</p> <p>(g) Signs of any nature attached by any means to glass windows except for professionally applied lettering.</p> <p>(h) Lettering on awnings and valences or any nonpermanent material except for protective awnings which extend outward from entrances which may bear on each side, facing the street;</p> <p>(i) Lettering painted on the exterior wall of any building except as provided in section 17-22(a);</p> <p>(j) Roof-mounted signs;</p> <p>(k) All adhesive decals or signage, whether opaque or transparent, affixed directly to glass.</p>	<ol style="list-style-type: none"> Abandoned signs. Bare bulb signs. Box signs. Cabinet signs. Diagonal lettering. Exposed neon tubing. Pennants, banners, streamers, balloons, blinking and flashing lights, streamer lights, flags except as provided in Section 5-1901(B). Portable signs, including signs that are painted or affixed in any manner to any vehicle, vessel, trailer or pick up truck, van or similar transportation device as viewed from a public road, except: Temporary lettering or graphics, except as specifically permitted herein. Signs attached to or placed on a vehicle (including trailers) that is parked on public or private property. Vertical lettering. 	<p>Signs causing glare; nor be equipped or displayed with moving, flashing or intermittent illumination.</p>	<p>(1) A sign that covers, interrupts or disrupts the major architectural features of a building.</p> <p>(2) Abandoned signs or signs that relate to a discontinued business or service.</p> <p>(3) (Reserved)</p> <p>(4) All signs located on or over public property or right-of-way, except those installed by governmental agencies or banners attached to publicly approved pole brackets for special event purposes only.</p> <p>(5) Animated signs, except a television or computer monitor installed in the window sign area.</p> <p>(6) Any sign placed on or attached to utility poles except for the purpose of utility identification.</p> <p>(7) Any signs that could be confused with traffic signals or traffic signs.</p> <p>(8) Any signs that constitute a safety hazard.</p> <p>(9) Attention-getting devices or signs that emit sound, vapor, smoke, or moving signs that revolve, rotate, flash, etc.,.</p> <p>(10) Balloon signs and pennants, streamers, except where allowed for government purposes and public purposes, including signs for special events as approved by the City.</p> <p>(11) Bare bulb signs.</p> <p>(12) Billboards, other than those lawfully existing on the effective date of these LDRs</p>	<p>(a) Billboards.</p> <p>(b) Temporary sign or sandwich sign except as permitted under section 90-74</p> <p>(c) Off-premises signs.</p> <p>(d) Signs which simulate, copy or imply any official traffic signal or police caution device.</p> <p>(e) Signs that contain obscene matter, or contains wording which violates any federal, state or county statute, ordinance or rule and it shall be unlawful for any person to display upon any wall or other advertising structure any matter which is obscene or wording which violates any federal, state or county state ordinance or rule.</p> <p>(f) Signs that display intermittent lights, to move or revolve.</p> <p>(g) Signs which contains wording which constitutes fraudulent or misleading advertising.</p> <p>(h) Sign which have spinning devices, or strings of spinning devices, or other similar devices.</p> <p>(i) Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.</p> <p>(j) Roof signs.</p> <p>(k) Pennants, banners, streamers, balloons and</p>



(19) Murals.
 (20) Neon signs (other than reverse channel and wall signs where permitted) including neon building trim.
 (21) Off-premises signs.
 (22) Painted wall signs.
 (23) Parapet signs, excepting that 50 percent of that portion of a sign located in an area with a parapet may extend above the roofline.
 (24) Any signs illuminated from outside the boundaries of the sign unless the source of illumination is not visible from any abutting right-of-way or any adjacent property.
 (25) Pole signs.
 (26) Portable signs, except as specifically permitted under this section.
 (27) Projecting signs, except canopy signs.
 (28) Pylon signs.
 (29) Reader boards.
 (30) Roof signs.
 (31) Service station pump island banners or advertising or promotional signs.
 (32) Signs attached to trees or other vegetative landscaping material.
 (33) Signs placed on awnings, shades, canvas or other similar structures, except as specifically permitted.
 (34) Signs with raceways unless approved by the community development director for those situations where there is no alternative method.
 (35) Snipe signs.
 (36) Swinging/hanging signs.
 (37) Vehicle signs close to or

(l) Temporary service provider signs shall be prohibited during any period of time a service provider employee is actually present and working at the subject site or not present and working.
 (m) Human/people/mannequin signs, or any sign that is worn (including costumes) or held by a human, a person or mannequin, with or without written message content, for the purpose of advertising or otherwise drawing attention to an establishment, commodity, service or event.

and protected by F.S. § 479.15(2).
 (13) Box/cabinet wall signs utilizing internal illumination.
 (14) Buntings.
 (15) Bus bench/shelter signs.
 (16) Changeable copy signs, except as specifically permitted under this chapter.
 (17) Signs erected or painted on fences or wall enclosures, except as specifically permitted in this chapter.
 (18) Marquee signs, except as specifically permitted in this chapter.
 (19) Murals, except as specifically permitted in this chapter.
 (20) Neon signs (other than reverse channel, wall and pedestrian signs.
 (21) Off-premises signs except as permitted herein.
 (22) Painted wall signs except for pedestrian signs, where permitted.
 (23) Parapet signs, except that 50% of that portion of a sign located in an area with a parapet may extend above the roofline.
 (24) Any signs illuminated from outside the boundaries of the sign unless the source of illumination is not visible from any abutting right-of-way or any adjacent property.
 (25) Pole signs.
 (26) Portable signs, except as specifically permitted under this chapter.
 (27) Projecting signs, except canopy signs.
 (28) Pylon signs.

all other fluttering, spinning or similar type signs and advertising devices, except for national flags.
 (l) Neon signs.
 (m) Electronic signs either installed inside for view through windows or on the exterior of the building.



on the public right-of-way when used for advertising purposes.

- (29) Roof signs, except where the sign is permanently attached to a parapet or upper walls of a building for support.
- (30) Service station pump island banners or advertising or promotional signs.
- (31) Signs attached to trees or other vegetative landscaping material.
- (32) Signs placed on awnings, shades, canvas or other similar structures, except as specifically permitted.
- (33) Signs with raceways.
- (34) Snipe signs.
- (35) Swinging/hanging signs.
- (36) Vehicle signs when used for advertising purposes at a given location or site.
- (37) Inflatable signs.
- (38) Any vehicle sign affixed to a vehicle that remains stationary for a period in excess of 24 hours.

