Zoning Code Update – Technical Corrections

Transfer to City Code (draft 05 01 19)

There are currently many items and regulations that exist in the Zoning Code that pertain to the public right of way and are proposed to be relocated from the Zoning Code to the City Code. The new locations in the City Code with the below information are currently being finalized. At the beginning of each relocated section in the City Code, a clarification will be added to reference the "Definitions" of the Zoning Code.

The items to be transfer from the Zoning Code to the City Code include:

1. Concurrency Review (Article 3, Division 13) will be moved in a new chapter in the City Code
2. Wild animals and reptiles, keeping. (Section 4-414) will be moved to Chapter 10 Animals
3. Lighting (Article 5, Division 12) will be moved to Subpart B – Land Development Regulations, Chapter 105 – Buildings and Building Regulations, Article V. – Minimum Housing Code, Division 9. – Light and Ventilation Standards
4. Standards for subdivision improvements (Section 5-1510) will be moved to Subpart B – Land Development, Chapter 62
5. Underground Utilities (Article 5, Division 22) will be moved to Subpart B – Land Development, Chapter 70

ARTICLE 3 – DEVELOPMENT REVIEW

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Division 13. Concurrency Review

Section 3-1301. Purpose and applicability.

It is the purpose of this Division to provide a process for ensuring that the public facilities and services needed to support development are available concurrent with the impacts of such development.

Section 3-1302. General procedures for concurrency review.

Section 3-1303. Concurrency review required.

A. Pursuant to Florida Statutes and the City's comprehensive plan, concurrency review is required for all applications for development approval in order to identify and address the impacts of new development on the levels of service for various public facilities and services, except as exempted under the provisions of Sections 3-1303(B) and (C) below.S

B. Concurrency review is not required for the following:

   1. Applications for single-family residential development platted prior to December 8, 1992.
   2. Applications for additions, renovations, or reconstruction of residential dwellings which do not increase the number of dwelling units placed on the premises or approved for the property.

3. Additions, renovations, or reconstruction of uses accessory to residential dwellings.
4. Sign permits.
5. Applications which will not result in a development order.
6. Applications requesting modifications of previously approved development orders where it is determined that the impacts on the prescribed levels of service imposed by the requested modifications will be no greater than the impacts posed by the previously approved development order or the previously existing use.
7. Vested projects.

C. Certificates of use and occupancy may be issued without the requirement for further concurrency review where the applicant for the certificate of use and occupancy holds a valid, unexpired building permit for the identical use of the subject structure or site or pertinent portion thereof; provided said building permit is not subject to a development agreement of other conditions requiring the applicant, successors, or assigns to provide or contract for the construction of necessary public services and facilities or other appropriate service impact mitigation measures. Where the building permit is subject to such development agreement or appropriate conditions, no certificate of use and occupancy shall be issued until the Development Review Official determines that all agreements and conditions have been satisfied.

Section 3-1304. Public School Concurrency review required.

A. In addition to the provisions in Section 3-1303 above, pursuant to Florida Statutes and the City's comprehensive plan public school concurrency review is required for all applications for development approval in order to identify and address the impacts of new residential development on the levels of service for public school facilities, except as exempted under the provisions of Section 3-1304(B) below.

B. Concurrency review is not required for the following:

1. Applications for one (1) unit single-family homes.

2. Assisted Living Facilities, as defined in Article 8.

3. Non-residential development.

4. Any Development of Regional Impact (DRI) for which a development order was issued, pursuant to Chapter 380, F.S., prior to July 1, 2005.

5. Applications for which preliminary Board of Architects approval was secured prior to January 1, 2008.

Section 3-1305. Application.

All applications for concurrency review shall accompany all applications for development approval, unless otherwise exempt under the provisions of this Division. Such applications shall be made in writing upon an application form approved by the City and shall be accompanied by applicable fees.

Section 3-1306. City review and determination.

A. The Development Review Official shall review each application for a development order and shall determine whether the request would have no impact or would have impacts on levels of service that fall below thresholds for public facilities and services prescribed in the Concurrency Manual.S

B. In the event that the Development Review Official determines that there is no impact, a statement of no impact shall be issued to the applicant and the Board of Architects or other decision maker responsible for the issuance of the development order. Such statement of no impact shall be valid for

a period not to exceed one (1) year from issuance.

C. Concurrency Impact Statement.

1. Prior to final Board of Architects review and approval, the applicant, its successors, or assigns shall secure a written Concurrency Impact Statement from the Development Review Official, who shall determine the impacts to levels of service for public facilities and services, pursuant to concurrency review criteria contained in Section 3-1307.
2. If the concurrency impact statement indicates that the proposed development satisfies the adopted levels of service, the applicant shall secure the statement, furnish it to the Board of Architects and other decision makers, and reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void.

3. If the concurrency impact statement indicates that the approval cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the application, or come to an acceptable mitigation agreement with the City and/or other appropriate entity responsible for the public service or facility in question, subject to the City's final review and approval. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement shall be secured by the applicant and furnished to the Board of Architects and/or other decision-makers responsible for the issuance of the development order, and shall specify the modifications, agreements or conditions which shall be satisfied prior to the issuance a final Board of Architects approval and/or final development order.

D. Reservation of capacity.

1. Upon payment of a fee prescribed in the City of Coral Gables Concurrency Manual, or other fee schedule, as amended, an applicant, its successors, or assigns may reserve capacity for up to twelve (12) months from the date of capacity reservation for the project. An applicant's failure to successfully reserve capacity for all applicable public facilities and services within the timeframes prescribed in the City's Concurrency Manual will render a final Board of Architects approval and/or final development order null and void. An applicant, its successors, or assigns may secure an extension of capacity reservations for an additional twelve (12) months, subject to the terms prescribed in the Concurrency Manual, and the payment of all applicable fees.
2. A Public School Concurrency Certificate issued by Miami-Dade County Public Schools to the applicant, its successors, or assigns, shall be valid for the following time periods, unless otherwise provided for in the Proportionate Share Mitigation Agreement:

    a. Twelve (12) months from the issuance of a document signifying public school capacity reservation.
    b. Twenty-four (24) months from the date of issuance of a final Board of Architects approval and/or final development order. However, with one hundred twenty (120) days advance notice, up to three (3) twelve (12) month extensions of the Public School Concurrency Certificate may be granted by Miami-Dade County Public Schools. In no event shall a Public School Concurrency Certificate be valid for more than six (6) years.
    c. Extensions will only be granted when Miami-Dade County Public Schools receives documentation that the applicant, its successors, or assigns are progressing in good faith through the City's review process. Once the City issues the final Board of Architects approval and/or final development order, the Public School Concurrency Certificate shall remain valid pursuant to the timeframes prescribed herein.
    d. The applicant, its successors, or assigns shall be responsible for all coordination, monitoring, payments, and notification associated with the Public School Concurrency Certificate, and shall advise the City of any associated agreements with Miami-Dade County Public Schools.

Section 3-1307. Concurrency review criteria.

A. The public facilities and services needed to support development shall be deemed to be available concurrent with the impacts of development if the following criteria are satisfied:
    1. The necessary public facilities and services are in place at the time a final Board of Architects approval and/or final development order is issued; or
    2. A final Board of Architects approval and/or final development order is issued subject to the condition that the required public facilities and services will be in place when the impacts of the development occur; or
    3. The necessary public facilities are under construction at the time the final Board of Architects approval and/or final development order is issued and such construction is the subject of enforceable assurance that it shall be completed and serviceable without unreasonable delay; or
    4. The necessary public facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the final Board of Architects approval and/or final development order is issued; or
    5. The necessary public facilities are funded and programmed for implementation in year one (1) of the City's adopted capital budget, or similarly adopted budget of other government agencies; or
    6. The necessary traffic circulation, mass transit, or public school facilities or services are programmed for implementation in or before year three (3) of the city's adopted budget or similarly adopted budget of other governmental agencies including the county's capital budget, the School Board's Facilities Work Plan, or the state agency having operational responsibility for affected facilities; in all cases, such facilities must be committed for construction in or before year three (3); or
    7. The necessary public facilities and services are guaranteed in a development agreement to be provided by the developer, pursuant to Section 163.3220, Florida Statutes, or Chapter 380, Florida Statutes; or
    8. Timely provision of the necessary public facilities and services will be guaranteed by some other means or instrument providing substantially equivalent assurances, subject to City review and approval; and
    9. In all instances where a decision to issue a building permit is based on the foregoing provision (5), (6), (7), or (8), all of the following conditions shall apply:
        a. The necessary public facilities and services shall not be deferred or deleted from the adopted capital budget unless the dependent final development order expires or is rescinded prior to the issuance of a certificate of use and occupancy; and
        b. Implementation of the necessary public facilities and services must proceed to completion with no unreasonable delay or interruption.

B. In determining the availability of public facilities and services, the applicant may propose and the City may approve development in stages or phases so that the public facilities and services needed for each stage or phase will be available in accordance with the criteria required by this chapter.

Section 3-1308. Concurrency manual.

The City shall promulgate and maintain a Concurrency Manual which shall contain the administrative procedures to be applied in the implementation of this Division, as determined by the Director of the responsible department.

Section 3-1309. Appeals.

An appeal from a negative concurrency determination may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3, Division 6 of these regulations.

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Section 4-414. Wild animals and reptiles, keeping.

Except as provided herein, it shall be unlawful for any person or persons to keep any wild animal within the City of Coral Gables provided, however, this section shall not apply to zoos, pet shops, medical or scientific institutions, or other places licensed for the showing or keeping of wild animals.

A. Standards for issuance of permit:

1. In the City Manager's consideration of permits for animals subject to the provisions of this section, there shall be a presumption against the issuance of a permit for any animal or reptile falling within the following classifications:

   a. Any lizard normally capable of inducing toxic effects through biting, including the Gila monster and the Mexican beaded lizard.

   b. Any lizard in excess of eight (8) feet in length or of a weight in excess of twenty-five (25) pounds.

   c. Any alligator, caiman, or crocodile in excess of four (4) feet in length.

   d. Any ape, including the chimpanzee, gorilla, orangutan, gibbon, or simian.

   e. Any true monkey but not including the smaller lower primates, such as lemurs, marmosets, etc., provided, however, it shall be unlawful to keep any monkey in such a place so as to be exposed to the public view.

   f. All members of the flesh-eating order of Carnivore, including non-domestic dogs, cats, foxes, seals, raccoons, coatamundis, bears, civets, skunks, and related forms.

   g. All horned or hoofed mammals.

   h. Elephants.

2. There shall be a presumption in favor of the issuance of a permit to keep animals which do not fall within the classifications set forth in Section 4-414(A)(1) above; provided, however, the City Manager may still in the exercise of discretion deny a permit where the keeping of such animal is dangerous and harmful to human safety.

Section 4-415. Domestic animal and fowl.

It shall be unlawful for any person to keep, harbor, breed or feed any horses, ponies, cattle, goats, pigs or other livestock, or any pigeons, peacocks, chickens, ducks or roosters, or other fowl.

Section 4-416. Possession, harboring, sheltering or keeping of cats and dogs.

A. It shall be unlawful for any person to possess, harbor, shelter, or keep more than four (4) adult cats or four (4) adult dogs at any one time, except veterinary hospitals properly licensed by the City.

B. It shall be unlawful to maintain any cat or dog so as to create a nuisance by way of noise, odor, menace to health, or otherwise.

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ARTICLE 5 – DEVELOPMENT STANDARDS

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Division 12. Lighting

Section 5-1201. Purpose and applicability.

It is the purpose of this Division to establish minimum standards for the provision and use of outdoor lighting in order to provide for the safe and secure night time use of public and private property while at the same time protecting adjacent land uses from intrusive light conditions.

Section 5-1202. Outdoor lighting permitted with standards.

Outdoor lighting for areas such as but not limited to, tennis courts, golf courses, sporting grounds, outside lighting for security purposes and night lighting of commercial buildings, any of which abut residential areas shall be permitted under the following conditions:

A. A permit for outdoor lighting may be issued if, after review of the plans and after consideration of the adjacent area and residential uses, the proposed lighting will be deflected, shaded and focused away from adjacent properties and will not be a nuisance to such adjacent properties.

B. Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half (½) foot-candle (vertical) and one-half (½) foot candle (horizontal) illumination on adjacent properties.

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Section 5-1510. Standards for subdivision improvements.

The following design and construction standards shall apply:

A. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as shall be required by the Director of Public Works. The monuments shall be of such material, size and length as may be approved by the Public Works Director.

B. Streets. Streets, alleys and appurtenances thereto shall conform to the following:

1. All streets and alleys shall be constructed and surfaced in accordance with the standard specifications of the Public Works Department. Such construction shall be subject to inspection and approval by the Public Works Director.
2. Drainage and drainage structures shall be provided on all streets and alleys in accordance with the standard specifications of the Public Works Department. In addition, curbs and gutters shall be provided in all commercial, apartment, hotel, industrial and similar districts. Such construction shall be subject to the inspection and approval by the Public Works Director.

C. Sidewalks. In all commercial, multi-family, industrial and similar districts concrete sidewalks shall be constructed along each side of every street shown on the plat in accordance with the standard specifications of the Public Works Department.

D. Street name signs. Street name signs shall be placed at all street intersections within or abutting the subdivision. Such signs shall be of a type approved by the City, and shall be placed in accordance with the standard specifications of the Public Works Department.

E. Street lighting. Street-lighting facilities shall be provided and installed in all subdivisions. The minimum

requirement for such lighting facilities shall be one (1) foot candle average maintained. However, no luminance ratio shall exceed twelve-to-one (12:1). A detailed plan showing the light standards, the locations of the light, wiring diagram and construction details, for the system shall be submitted to the Public Works Director for approval.

F. Water supply. The subdivider shall furnish the public works director a plan showing all proposed and existing water mains, and give sufficient proof that arrangements have been completed to insure installation of such water system. The water main plan shall be subject to approval by the Public Works Director.

G. Fire hydrants. Fire hydrants shall be installed in all subdivisions. Evidence shall be submitted to give proof that arrangements have been made to complete installation of such hydrants. The plan for hydrant locations shall be subject to approval by the Public Works Director.

H. Sanitary sewer. Where a public sanitary sewer is reasonably accessible, each lot within the subdivided area shall be provided with a connection thereto. All connections shall be subject to the approval of the Public Works Director.

I. Parkway landscaping. All parkways shall be properly treated with topsoil, sprigged, landscaped, and maintained until growth is relatively permanent. The plan for such landscaping shall be equal to the established standards of the City, and subject to the approval of the Public Service Director.

J. Land filling. All land within subdivisions shall be filled to minimum average settled elevation of plus six (6) feet above the national geodetic vertical datum (N.G.V.D.) or mean sea level (M.S.L.), and no elevation shall be less than plus five and five-tenths (5.5) feet above the national geodetic vertical datum (N.G.V.D.) or mean sea level (M.S.L.); provided, however, that where bulkheads are provided on waterfront property, the land within a distance of ten (10) feet from the bulkheads may gradually slope to the minimum required elevation of such bulkheads. The plan and additional documents showing proposed elevations, test borings, sources and types of fill, methods of filling, and method of disposal of vegetation and undesirable materials shall be subject to approval by the Public Works Director. After completion of land filling, the subdivider shall submit to the city a topographical survey prepared by a registered land surveyor or engineer to assure compliance with the minimum standards of this Subsection.

K. Bulkheads. When contour of the land is changed, bulkheads shall be required on all waterfront property. The minimum elevation of such bulkheads shall be plus four and five-tenths (4.5) feet national geodetic vertical datum (N.G.V.D.) or mean sea level (M.S.L.), and the type and design shall conform to the public works department standards and shall be subject to the approval by the Public Works Director and the City's Structural Engineer.

L. Bridges. Bridges shall be provided by the subdivider across all canals and waterways to provide adequate ingress and egress to all areas. The design of such bridges shall be in accordance with the Public Works Department standards and shall be subject to approval by the Public Works Director.

M. Underground utilities. All utility lines shall be installed in conformance with the requirements of Article 5, Division 22.

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Division 22. Underground Utilities

Section 5-2201. Requirement for underground utilities.

A. Purpose. The purpose of this Division is to require the installation of utility service facilities underground to assure the public safety, foster tree preservation, and improve and protect the aesthetic character of the City.

B. Applicability. Except as expressly provided hereinafter, all utility lines, including but not limited to those required for electrical power, distribution, telephone, and communication, street lighting, and television signal service shall be installed underground. This Section shall apply to all cables, conduits or wires forming part of an electrical distribution system including service lines to individual properties and main distribution feeder electric lines delivering power to local distribution systems, provided that it shall not apply to wires, conductors or associated apparatus and supporting structures whose exclusive function is in transmission of electrical energy between generating stations, substations and transmission lines of other utility systems. Appurtenances such as transformer boxes, pedestal mounted terminal boxes, and meter cabinets may be placed above ground but shall be located in conformance with the requirements of the Manual of Public Works Construction. This Section shall be applicable to the following uses:

1. Except for rehabilitation of structures of less than fifty (50%) percent of value, all new construction and utility installations shall be required to be underground.

2. When a structure undergoes a rehabilitation wherein the cost of the rehabilitation is fifty (50%) percent or more of the replacement value of the existing structure as determined by the Miami-Dade County Property Appraiser, utility service facilities for that structure shall be converted from overhead to underground.

C. Conversion of overhead to underground facilities. Whenever overhead utility distribution facilities have been converted to underground facilities, the property owners in the area to be served by the new facilities shall be required to arrange for the conversion of their existing service facilities in accordance with these regulations and, where applicable, utility company specifications for underground service. For electric service facilities, such conversion shall include but shall not be limited to rearranging existing electric service entrance facilities and necessary facilities within buildings and structures to accommodate the undergrounding of utilities. The property owner shall be responsible for all costs associated with the modification of service facilities for the affected property to accommodate underground utility service.

D. Notice of conversion requirement. The City shall notify each property owner when conversion from overhead to underground utility distribution service is complete. The notice shall be served by registered mail, addressed to the owner or owners of the property described as they are known to the City Manager or as their names and addresses are shown upon the records of the County Tax Assessor, or other public records of the City or County, and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. All necessary modifications and arrangements for use of underground facilities shall be completed within ninety (90) days of receipt of such notification.

E. Notice of property owner's failure to convert facilities.

1. If the City Manager determines that a building has not completed conversion to underground utility service facilities, he or she shall notify the owner of that building in writing and demand that the owner cause the conversion to be made within sixty (60) days of the date of service of the notice. The notice shall be by registered mail and in the form set forth in Subsection (2) of this Section. If

such notice is returned by postal authorities, the City Manager shall cause a copy of the notice to be served by a law enforcement officer upon the occupant of the land or upon any agent of the owner thereof.

2. If personal service upon the occupant of the land or upon any agent of the owner thereof cannot be performed after reasonable search by a law enforcement officer, the notice shall be served by physical posting on the property, and by publication in a newspaper of general circulation at least twice, seven days between publications, and thirty (30) days before the date the conversion is required. The notice shall be in substantially the following form:

"NOTICE REQUIRING CONVERSION OF UTILITY SERVICE FACILITIES

Name of Owner _____

Address of Owner _____

Our records indicate that you are the owner(s) of the following land in the City of Coral Gables, Florida: (describe property).

An inspection of this land discloses, and I have found and determined, that a building is located thereon which has not converted its (state type of utility) service facilities from overhead to underground service.

You are hereby notified that unless this building converts its (state type of utility) service facility from overhead to underground service within thirty (30) days of personal service upon you of this notice, or of the second publication hereof, the City will proceed to cause the conversion of these facilities and the cost of the work, including advertising costs and all other expenses necessary to complete the conversion will be imposed as a lien on the land if not otherwise paid within ninety (90) days after the conversion has been completed and the cost thereof ascertained by the City of Coral Gables."

F. Conversion of facilities by City; Lien; Recording; Redemption.

1. If within sixty (60) days after service of the notice as set forth in Subsection (E) above, or by physical posting of the notice on the property, or within thirty (30) days of notice by publication in a newspaper the required conversion of service of facility has not been effected, the City Manager shall cause the conversion to be made by the City at the expense of the property owner. The cost of the conversion shall constitute a lien upon the real estate served thereby. Upon ordering a conversion of service facilities to be made by the City, the City Manager shall cause to be recorded in the public records a notice of utility service conversion lien pending, which shall include a description of the property and a statement that a conversion has been ordered, the cost of which shall under this Section constitute a lien. The notice of pending lien shall, eight (8) months after the date thereof, be null and void and constitute no record notice of a pending lien.

2. After causing the conversion of service facilities to be done, the City Manager shall certify to the Finance Director the expenses as may have been approved by the appropriate City Department incurred in effecting the conversion and shall include a copy of the notice set forth in Section (E) above, whereupon such expense shall become payable within ninety (90) days, after which a special assessment lien and charge will be made upon the property, which shall be payable in ten (10) equal annual installments together with costs of recordation of all documents required to be

recorded hereby and with interest to be determined by the City Finance Director on the unpaid balance from the date of such certification until paid; however, the lien may be satisfied at any time by the payment of the entire sum due plus accrued interest, recordation costs, and such expenses and penalties as may result from the advertisement and sale of certificates for delinquent liens as hereinafter set out. The Finance Director shall file for record a notice of such lien in the office of the clerk of the circuit court, and shall keep complete records relating to the amount payable thereon. One-tenth (0.1) of the amount of liens accruing during any year ending on June 1 shall be billed and mailed in the fall of the same year to the owners of land subject to such liens at the same time as tax statements for ad valorem taxes are mailed; and if the amount shall not be paid on or before April 1 of the following year, the entire lien and all annual installments thereof shall be delinquent, overdue and in default.

3. The entire amount of the lien may be foreclosed by the City, or in the alternative may be collected by any other legal means, including the advertisement and sale of certificates. Upon full payments of liens provided by this Section or through foreclosure on tax sale certificates, the director of finance shall, by appropriate means, evidence the satisfaction and cancellation of such lien upon the public records. The cost of recordation of the notice of lien pending, the notice of lien, and the satisfaction of lien shall be secured by the lien hereby provided.

G. Underground facilities to remain underground. Wherever utility service facilities are located underground, such facilities must remain underground and may not thereafter be converted to overhead facilities.

Section 5-2202. Utility poles and underground utilities in SFR, MF1, MF2, and MFSA Districts.

The following provisions shall apply to utility poles and underground utilities on private property for all new construction and for existing construction. For the purpose of this section “service to the building” shall include electrical service, telephone service and television service to the building.

A. In SFR, MF1, MF2, and MFSA Districts, all utility poles and lines shall be placed in rear yard areas reserved for utility uses by easements granted for that purpose.

B. The service lines for all utilities for new buildings and or structures on private property shall be placed underground.

C. The lines for all utilities for existing buildings or structures on private property shall be placed underground when any of the following occur:

1. The service to the building or structure is replaced;
2. The service to the building or structure must be relocated due to an addition or alteration to the building or structure;
3. The service to the building or structure must be upgraded; or
4. An alteration to a building or structure is an Alteration-Level 3 pursuant to the Florida Building Code.

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