

Chapter 17

PLANNING AND DEVELOPMENT

Art. III Planning and Zoning Department, Planning Review Requirements,
Procedures and Notice Requirements

Sec. 17-46. Purpose.

This Article sets forth the Planning and Zoning Department duties, application review submittal requirements and procedures for obtaining land use changes, site plans, conditional uses, variances, vested rights, re-zonings, any other development orders as may be required and certain types of permits. This article also specifies the procedures for appealing decisions and seeking legislative action.

Sec. 17-47. Planning and Zoning Department.

The Planning and Zoning Department shall have the duty and responsibility to determine, interpret and enforce all sections of the Zoning Code. The Department shall promote, protect, and improve the health, safety, and welfare of the citizens of the Village by providing an equitable, expeditious and effective method of enforcing the zoning and related technical codes enforced by the Village.

Sec. 17-48. Generally.

Whenever an applicant desires a change in land use or zoning or site plan approval, conditional uses, variance, vested rights determination or any other development order as provided in this Chapter the applicant shall do so to the Department of Planning and Zoning (Department) in a form as prescribed by the Village. Included with the application shall be the appropriate fee as set forth and adopted by Resolution (Village Fee Schedule) to cover administrative review costs and costs associated with notices for public hearing.

The written application shall be signed by the owner or owner's designee and shall be accompanied by any necessary information or documentation supporting the request and which shall be reviewed in accordance with the provisions of this Chapter and applicable state law.

An application shall not be determined to be complete until the above are accurately submitted and deemed so by the Director of the Department of Planning and Zoning (Director). An incomplete application shall not be reviewed. The Village shall have the option to enter into a contract with a professional planning consultant who is accredited through the American Institute of Certified Planners (AICP) to perform the duties of the Planning and Zoning Director.

All applications required to be filed under this Chapter shall be filed with the Planning

and Zoning Director on a form provided by the Village. Application forms may be obtained at the Planning and Zoning Department or through the Village Planning Consultant.

Sec. 17-49. Authorization by Development Order Required Prior to Undertaking Development Activity.

No development activity may be undertaken unless the activity is authorized by a development permit.

Sec. 17-50. Pre-application Review.

In order to expedite the review process and avoid conflict, waste and expense a pre-application review may be required, at the discretion of the Department or at the request of the applicant, prior to the submission of the application. Such reviews will be performed by Director and will require information on the proposed application such as:

- (a) Amendments to the Comprehensive Plan, land use designations and zoning districts;
- (b) Type of development proposal;
- (c) Density/intensity of use;
- (d) Site plan and data;
- (e) Survey;
- (f) Subdivision plat;
- (g) Information on other required permits; and
- (h) Other information in order to explain proposal.

Pre-application review does not constitute a formal action by the Village and shall not be construed as a representation or implication that the proposal will be ultimately approved or rejected in any form.

Sec. 17-51. Cost Recovery.

The intent of this Section is to provide for a procedure for the recovery of costs related to the review of applications for development approval, real estate transactions, and economic development programs, such that those persons or entities that benefit from the Village's review and approval of these matters properly bear the costs of review. Application fees for public hearings and other items involving Village action or review

shall be adopted by resolution of the Village Council and deposited with the Village at the time of the filing of the application.

The cost recovery required herein shall not apply to applications or transactions that are originally initiated by or on behalf of the Village.

The cost recovery program shall be administered as follows:

(a) *Cost Recovery.* To the extent that any application for review by the Village under the Village's Zoning Code or, except as otherwise specified below, other Village Code provisions which require review by Village staff, Village contractors, agents or consultants, the actual costs for such additional review shall be passed on to the applicant. Costs for the Village Attorney and/or any outside contractors, agents or consultants of the Village shall be charged to the applicant in an amount equal to the actual hourly rate charged to the Village. If the total cost to review the application exceeds the initial fee on deposit with the Village, the Village will calculate the additional cost and prepare an invoice for payment by the applicant. The payment in full of all fees associated with Planning and Zoning Department review will be a condition of approval for the issuance of all building permits within the Village.

(b) *Village preparation of real estate transactional documents.* Unless prohibited by law, in circumstances in which the Village prepares closing papers, deeds, or other documents in conjunction with Village programs such as in-fill lot housing or other housing measures, or for other matters in which the Village holds a lien and is requested to subordinate its position, the Village shall charge the applicant a reasonable fee as determined by the Village Manager in an amount equal to the actual costs of the Village for the preparation of such documents.

(c) *Village loan and economic development programs.* In cases where the Village prepares loan documents, liens, mortgage papers, subordination documents and other such documents in conjunction with or resulting from Village loan and economic development programs, the Village shall charge the applicant a reasonable fee as determined by the Village Manager in an amount equal to the actual costs of the Village for the preparation of such documents.

Sec. 17-52. Requirements and Procedures for Site Plan Review.

(a) *Purpose.* The purpose of the site plan review is to encourage logic, imagination, innovation, and variety in the design process and to ensure the congruity of the proposed development and its compatibility with the surrounding area. The Department shall review plans for compliance with the land use regulations and development standards of this Chapter

(b) *Applications subject to site plan review.*

All applications shall be subject to site plan review and approval by Village Council after

public hearing, except as provided in Sub-Section 6-4.

(c) *Review procedure for developments.*

- (1) *Application.* Applications for site plan review shall require the submission of a site plan in accordance with the provisions of this article. No certificate(s) of occupancy shall be issued for any building or buildings unless all facilities included in the approved site plan have been provided.
- (2) *Submittal procedure.* All applications for a site plan review shall be made in accordance with the following procedures in this Section.

Upon receipt of two copies each of the site plan, the overall size of which shall be 24" x 36", drawn at a scale not less than 1" = 50' and application the Director shall have ten working days to determine its appropriateness and completeness and accept or reject the application.

The Department shall review and comment on the site plan application and recommend to the Village Council approval, as submitted; recommend with changes or special conditions; or denial.

(d) *Findings.* The Village Council or Planning and Zoning Director, if applicable, shall review the site plan and grant, with or without changes or special conditions, or disapprove said site plan. When reviewing the site plan the following findings shall be made:

- (1) In what respect the plan is or is not consistent with the Comprehensive Plan and the purpose and intent of the use district in which it is located.
- (2) In what respect the plan is or is not in conformance with Property Development Regulations of the zoning district in which it is located.
- (3) Will the approval of the site plan have an adverse impact on the environmental and natural resources of the Village.
- (4) Will the approval of the site plan have an adverse impact on the necessary public facilities of the Village.

(e) *Submittal requirements.* Any application for site plan approval shall include the following information:

- (1) Letter of intent describing the nature of the request and any other pertinent information.
- (2) Application fee.

- (3) A legal description, including the section, township, and range.
- (4) Site boundaries clearly identified, and ties-to-section corners.
- (5) Proposed land uses.
- (6) Location and height of all structures and total floor area with dimensions to lot lines, and designations of use.
- (7) Building separations dimensioned.
- (8) Vehicular circulation system for cars, bicycles, and other required vehicle types, with indication of connection to public rights-of-way. Location of all parking and loading areas.
- (9) All adjacent rights-of-way, with indication of ultimate right-of-way line, center line, width, paving width, existing median cuts and intersections, street light poles, and other utility facilities and easements. Location of all cross streets and driveways within 350' of property limits.
- (10) Pedestrian circulation system.
- (11) Provider of water and wastewater facilities.
- (12) Existing and proposed fire hydrant locations.
- (13) The following computations shall be provided in a legend:
 - a. Gross acreage.
 - b. Net acreage. Gross acreage covered by the property excluding road easements and rights-of-way, if any.
 - c. Number of dwelling units and density for residential uses only.
 - d. Square footage of ground covered by buildings or structures and designation of use.
 - e. Required number of parking spaces.
 - f. Number of parking spaces provided.
 - g. Front, side(s), rear setbacks required and provided.
 - h. Pervious, impervious and paved surfaces, in square footage and percentage.

- i. Open space, in square footage and percentage.
- (14) Site plan location sketch, including section, township, and range, showing adjacent property owners.
 - (15) Geometry of all paved areas including centerlines, dimensions, radii, and elevations.
 - (16) Location of trash and garbage disposal system and provisions for accessibility to garbage trucks.
 - (17) Loading areas and provisions for accessibility to vehicles of the required type.
 - (18) Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type.
 - (19) Location of septic tank and drain field, if applicable.
 - (20) Street names and addresses, or a range of addresses, for any proposed building within the site plan, in conformity with Village standards.
 - a. All addresses must be reviewed and approved by the Planning and Zoning Director or his or her designee. New addresses associated with a site plan shall be submitted at the time of site plan application. All other addresses shall be submitted in a format acceptable to the Village Manager or his or her designee.
 - b. Address assignment shall be based on the primary frontage the site faces or accesses. The primary frontage can be either a public or private right-of-way. Driveways serving as access to a location which connect to the primary frontage cannot be used for addressing purposes.
 - (21) A recent survey prepared by a Florida registered surveyor and mapper, certified as to meeting the requirements of the applicable section of the Florida Administrative Code, reflecting existing natural features, such as topography, vegetation, existing paving, existing structures, and water bodies.
 - (22) Landscape plan and irrigation plan with landscape calculations, existing tree survey with indication of existing native vegetation that will be preserved, as required herein.
 - (23) Lighting plan showing photometric measurements and spillage onto adjacent properties and rights-of-way.

- (24) Sign plan, for all signs which will be on site.
- (25) A 24" X 36" color rendition of the building elevations of all four sides. This must be set upon an easel in the lobby of the place of the Village Council meeting at least 30 minutes prior to any Village Council meeting where the site plan will be considered. In addition, 5 copies of an 11 inch by 17 inch color renderings depicting the architectural design elements and theme for all sides of a building structure. All sides of a building structure are required to possess similar architectural design elements and theme that is depicted on the primary side of the same building structure.
- (26) Pavement markings and traffic signing plan.
- (27) Schematic water and sewer plan including the location and size of all mains and lift stations.
- (28) Paving, grading, and drainage plan showing location of all drainage features, and retention areas at 2 foot elevation intervals.
- (29) Materials chart requirement:
- a. All applicants for site plan approval, where applicable, shall create and present to the Village Council a materials chart, which shall consist of actual samples, indicating the color, type and the manufacturer's name and identifying numbers of roofing materials, and the color, type and the manufacturer's name and identifying numbers of paint, to be used in the project.
 - b. The Village shall maintain the materials chart until the issuance of the Certificate of Completion or the Certificate of Occupancy, and for such additional time as it may determine is necessary.
 - c. The applicant shall also provide the Village with the information from the materials chart in written form, including the name of the manufacturer and the manufacture's designation number for each item used on the materials chart. This sheet shall be attached to the site plan approval application and shall be incorporated as part of the application.
- (30) Applications submitted that utilize an existing approved site plan, shall either include: a current "as built" or existing conditions survey delineating all buildings, parking spaces and easements of record; or the certification of a surveyor, engineer or architect, duly licensed by the state, that the existing conditions are identical with those shown on the submitted site plan.

- (31) If deemed necessary by Village Planning Director, a traffic study shall be submitted by the applicant.
- (32) Two (2) full set of plans reviewed and approved by the Miami-Dade County Fire and Rescue Department. An original stamp and signature from the Fire and Rescue Department is required. If plans change significantly prior to site plan approval, Village staff may determine that an additional review by the Fire and Rescue Department is required.
- (33) Other such information as required by the Village Planning Director.

Sec. 17-53. Modifications to Final Development Orders.

After a final development order has been issued under this Chapter, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification to the development order. A modification may be applied for in the same manner as the original, subject to fees as enumerated in the Village fee schedule. A written record of the modification shall be made a part of the original final development order and maintained in the files of the Village.

Sec. 17-54. Substantial Compliance Determinations.

The Director is authorized to consider and make substantial compliance determinations which are minor modifications to previously approved site plans.

(1) The Director may approve an application to modify a site plan where it is demonstrated that the proposed modification will result in substantial compliance with the previous zoning action regarding the site plan, as demonstrated by all of the following:

- (a) Development density and intensity have not materially changed, in that:
 - 1. the number of buildings is not increased by more than 10 percent;
 - 2. the number of stories is the same or fewer;
 - 3. the height of the building(s) is the same or less;
 - 4. the number of units is the same or fewer;
 - 5. the lot coverage and/or floor area ratio have not increased or decreased by more than 10%;

6. the number of bedrooms and corresponding parking spaces are increased or decreased by as much as 10%, based on the entire plan, provided the plan complies with all other requirements of this subsection and of this chapter; and
 7. density or intensity (floor area ratio) may be transferred from one building to another or from one stage of development to another, provided that the total floor area ratio is not changed.
- (b) Design has not materially changed, in that:
1. the roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans;
 2. the parking area is in the same general location and configuration;
 3. the building setbacks are the same or greater distance from perimeter property lines, except that the building setbacks for detached single family development, zero lot line and townhouse developments may also be decreased, provided that such decrease is limited such that the resulting setback distance will be the greater of either the underlying zoning district regulations, or any condition or restrictive covenant regulating the setback for which a substantial compliance determination is sought;
 4. the landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect;
 5. the proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved;
 6. elevations and renderings of buildings have substantially similar architectural expressions as those shown on the approved plans;
 7. recreational facilities, if shown on plans approved by a prior action, either remain the same or are converted from one recreational use to another;
 8. if recreational facilities were not shown in the approved plans, they may be added, provided there is no increase in lot coverage or decrease in required non-recreational open space and such facilities are located internally within the proposed development;

9. the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the land development regulations that were not previously approved at public hearing, or of expanding the scope of existing variances, or other approvals such that they would differ to a greater degree from the strict application of the land development regulations;
10. additional out parcels may be added where:
 - a. there is no increase in the project's total floor area ratio or lot coverage;
 - b. there is no reduction in the total amount of landscaped open space; and
 - c. addition of the out parcel does not result in noncompliance with any other provision of this subsection on any other portion of the subject property.
11. reductions in the number of parking spaces on the site are permitted if sufficient parking spaces are provided to satisfy the requirements of this Code. An approved parking management plan is required for the Village to consider reduction in the number of parking spaces.
 - (c) The slope of any lake for which a modification is requested complies all applicable provisions of the Code of Miami-Dade County, Florida.

Sec. 17-55. Commencement of Development.

If the commencement of development does not occur within twelve (12) months from the date of final approval, the approval shall become null and void and the site may not be developed in accordance with the plan. If development is permitted in phases a phasing plan shall be required and subsequent phases shall commence within 18 months after the completion of the previous phase.

If subsequent phases are not commenced within the 18 month period, the final approval shall be null and void and reapplication to the Village shall be required for the remaining phases. Phases may be developed out of sequence if good cause is shown and not be to the detriment of the preceding phase(s).

Prior to the expiration of an approved site plan the applicant may apply for an extension. The applicant shall have the burden of showing good cause of why said

site plan should be extended. The extension may be approved administratively by the Planning and Zoning Director.

Sec. 17-56. Requirements and Procedures for Administrative Site Plan Review.

- (1) *Applications subject to administrative site plan review.*
 - a. Construction of one (1) single family residence on a single lot;
 - b. Construction of a single duplex on a single lot; and
 - c. The deposit and contouring of fill on land.
- (2) *Review procedures.*

Application for Administrative Site Plan Review shall be submitted in accordance with the same procedure for a site plan requiring a public hearing.

Sec. 17-57. Requirements and Procedures for Variances and Administrative Adjustments.

(a) *Generally.* Variances or Administrative Adjustments are relaxations of the technical requirements of this Chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, and where a literal enforcement of this Chapter would result in unnecessary or undue hardship. No variance that would increase flood damage on other property shall be granted unless flowage easements have been obtained from the owners of affected properties.

(b) *Variance.* The Village may grant a variance from the provisions of this Chapter in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for variances other than the Village itself.
- (2) Applications shall be received by the Village in a form prescribed by the Village accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include:
 - a. Existing Land use designation(s)

- b. Existing zoning districts
 - c. Type of development proposal
 - d. Density/intensity of use
 - e. Survey of property
 - f. Subdivision plat, if platted
 - g. Variance requested
 - h. Reason and justification for variance
 - i. Information on other required permits, if any
 - j. Other information in order to explain proposal
- (3) The Planning and Zoning Director shall review all submitted applications for completeness.
- (4) The Director shall meet to consider applications for variances and shall make an initial determination of conformance with applicable regulations. Upon conclusion of the review, the Director shall make a recommendation to the Village Council.
- (5) The Village Council shall hold a public hearing to consider the recommendation of the Director with respect to applications for variances and shall, upon conclusion of the public hearing, determine where, owing to special conditions, a literal enforcement of the provisions of these land development regulations will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this zoning code, the Village Council must and shall find the following:
- a. Special conditions and circumstances exist 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 district.
 - b. The special conditions and circumstances do not result from the actions of the applicant and/or the property owner.
 - c. Literal interpretation of the provisions of this zoning code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this zoning code and would result in unnecessary and undue hardship, but not

economic hardship, on the applicant.

- d. The variance granted is the minimum variance that will make possible the reasonable use of land, structure, or building.
- e. The grant of the variance will be in harmony with the general intent and purpose of this zoning code, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- f. Granting the variance requested will not be detrimental to adjacent property or adversely affect the public welfare.
- g. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the authorization of a variance.

(c) *Administrative Adjustment.* The Director may, by administrative decision, grant an administrative adjustment from the strict application of this zoning code but only in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for adjustments other than the Village itself.
- (2) Applications shall be received by the Village, in a form set by the Village, accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include the information as required in Sec. 17-57.(b)(2) above.
- (3) The Planning and Zoning Director shall review all submitted applications for completeness for said administrative adjustment and determine that:

Policy Guidance from Village Manager

- a. That the setback proposed is reduced not more than **XX%** of that required;
- b. That the lot coverage is not increased by more than **XX%** of that allowed; and
- c. That the spacing between structures is not less than **XX** feet.

- (4) The Director will review the information and render a decision approving, approving with modifications or conditions or denying the request.
- (5) In granting the adjustment, the Director must find:
 - a. That the adjustment will be in harmony with the general appearance and character of the community;
 - b. That the adjustment will not be injurious to the area involved or otherwise detrimental to the public welfare; and
 - c. That the proposed structure or addition for which the administrative adjustment is being requested is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent residences while affording the applicant a reasonable use of the land.
- (6) A copy of said decision shall be kept on file with the Village Clerk and published in accordance with Section 17-63. This will become effective 30 days after the Director's decision, unless an appeal is filed.

Sec. 17-58. Requirements and Procedures for Conditional Uses.

(a) *Purpose.* The purpose of a conditional use is to allow uses not permitted by right but which may provide for an individual or community-serving need and which, subject to conditions as set forth in Chapter, would not impact the integrity of the zoning district. The Planning and Zoning Director shall review plans for compliance with the zoning code and property development regulations of this Chapter. The recommendations of the Director shall be transmitted to the Village Council for its consideration after public hearing.

(b) *Review procedure for developments.*

- (1) *Application.* Applications for conditional uses shall require the submission of a site plan in accordance with the provisions of this Chapter. No certificate(s) of occupancy shall be issued for any use unless said use has been approved.
- (2) *Submittal procedure.* An application for a conditional use shall be made to the Planning and Zoning Director prior to an application for a building permit.

Upon receipt of five copies of the application the Director shall have 10 working days to determine its appropriateness and completeness and accept or reject the application.

The Director shall review and comment on the conditional use application and recommend to the Village Council approval, as submitted; recommend with changes or special conditions; or denial.

(c) *Findings.* The Village Council shall review an application for a conditional use and set forth the reasons for approval, with or without changes or special conditions, or for the disapproval.

These uses shall be authorized by the Village Council subsequent to review by the Village and shall additionally comply with the following requirements:

- (1) The use is a permitted special use as set forth in the conditional uses for that district.
- (2) The use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
- (3) The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
- (4) The use will be compatible with adjoining developments and the proposed character of the district where it is to be located.
- (5) Adequate landscaping and screening is provided as required in this Chapter, or as otherwise required.
- (6) Adequate off-street parking and loading is provided. Ingress and egress is designed so as to cause minimum interference with traffic on abutting streets and the use has adequate frontage on a public or approved private street.
- (7) The use conforms with all applicable regulations governing the district where located.

Violation of the conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Chapter.

The Village Council may prescribe a reasonable time limit within which the action for which the conditional use is required shall be begun, or completed, or both.

(d) *Submittal requirements.* Any application for conditional use shall include the following information, if applicable:

- (1) The location and size of the site, including its legal description and a current certified survey.

- (2) The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
- (3) The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological structures.
- (4) The density or intensity of land use to be allocated, all parts of the site to be developed, together with tabulations by acreage and percentage thereof.
- (5) The location, size, and character of any open space, common or otherwise.
- (6) The use and the number of stories and height, bulk, and location of all buildings and other structures.
- (7) The requirements as set forth in this Chapter and other Chapters, including the necessary documentation for providing required improvements such as streets, water supply, storm drainage, parking, landscaping, and sewage collection as well as the provisions for all other appropriate public and private services such as police or security protection, fire protection, and refuse collection.
- (8) The substance of covenants, grants of easements, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities.
- (10) Any additional data, plans, or specifications which the applicant believes is pertinent and will assist in clarifying his application.
- (11) A demonstration that the proposed conditional use does not degrade adopted levels of service in the Village.

Sec. 17-59. Requirements and Procedures for Comprehensive Plan Amendments.

Comprehensive Plan amendments may be initiated by the Village Council or property owners. Comprehensive Plan amendments, unless otherwise exempted by applicable law pursuant to Florida Statutes, shall be considered only on a semi-annual basis in accordance with the following procedural calendar and regulations:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for Comprehensive Plan amendments other than the Village itself.
- (2) The Village shall publish a notice of intent to accept applications for amendments to the Comprehensive Plan.

- (3) Applications shall be received by the Village in a form set by the Village and made available to the applicants at the time of the Village's publication of its notice to accept applications.

At the discretion of the Department, Village-initiated amendments may be held twice, at any time, during the year pursuant to F.S. Chapter 163.

- (4) The Department shall review all submitted applications for Comprehensive Plan amendments and shall prepare a comprehensive written recommendation, including any initiated by the Village itself.
- (5) The Local Planning Agency shall hold a public hearing to consider applications for amendments to the Comprehensive Plan and shall, upon conclusion of the public hearing, make a recommendation to the Village Council with respect to each application.
- (6) The Village Council shall consider applications for amendments to the Comprehensive Plan and shall, upon conclusion of the public hearings, adopt an ordinance expressing an intent to adopt those proposed amendments to the Comprehensive Plan that it considers to be in the best interest of the residents, property owners and the citizens of the Village.

Sec. 17-60. Requirements and Procedures for Re-zoning of Property.

An application for the rezoning of real property may be filed by the village council or the owner of the property which is the subject of the application. Any person may request that the village council initiate an application for the rezoning of property, and the village council may accept or reject that request.

Rezoning of property located within the Village shall be considered only in accordance with the following procedures, regulations and requirements:

- (1) Property owners or their authorized representatives, who possess written authorization, shall be the only eligible applicants for rezoning of property other than the Village itself.
- (2) Applications shall be received by the Village in a form set by the Village accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this Chapter and applicable state law. Information supporting said request shall include:
 - (a) Letter of Intent explaining the nature of the request

- (b) Existing Land use designation(s)
 - (c) Existing and proposed zoning districts along with the respective current and proposed densities and/or intensities
 - (d) Type of development proposal
 - (e) Density/intensity of use
 - (f) Current survey of property
 - (g) Subdivision plat, if platted
 - (h) Information on other required permits
 - (i) Fire Department approval
 - (j) DERM approval
 - (k) If residential development, Miami-Dade County Public Schools review.
 - (k) Other information in order to explain proposal
- (3) The Planning and Zoning Director shall review all submitted applications for rezoning of property, and determine the completeness of the submittal. No incomplete application shall be reviewed by the Village. The Planning and Zoning Director shall review the application and make a recommendation to the Village Council.
 - (4) The Village Council shall, after a public hearing, consider the rezoning of the property. The Village Council shall consider an approval to be consistent with the Comprehensive Plan, in the best interest of the residents, property owners and the citizens of the Village.
 - (5) An application by the owner for the rezoning of property owned by more than 1 person shall be executed by all of the owners. An application by the village council shall be executed by the city manager or by the Planning and Zoning Director.
 - (6) If the application is filed by the owner, the application shall be accompanied by the required filing fee.
 - (7) An application by the owner for an approval under this section shall be deemed abandoned 30 days after the date the Village notifies the applicant of any deficiencies contained in the application. The Village may, upon

written request and justification by the applicant, grant not more than 1 60-day extension. At the expiration of the 60-day period, or any extension thereof, the application shall automatically expire and become null and void. Permit fees and charges paid at the time of application, and plan check fees, shall be refunded, except that an administrative fee shall be retained.

- (8) An application for rezoning by the Village council shall be filed in the name of the Village upon the same form as provided for an owner, but the name and address of any owner or contract purchaser not appearing on the current ad valorem tax roll of the property appraiser of the county shall not be required upon the form.
- (9) The Planning and Zoning Director shall reject the application if a similar request for rezoning has been considered by the Village council and denied at any time within 6 calendar months immediately prior to the date the application is submitted.
- (8) Upon acceptance of the application, the Village shall:
 - (a) Set a date for a public hearing to be held by the Village Council; and
 - (b) Place a sign or signs upon the subject property in plain view from at least 1 abutting street, setting forth the requested rezoning, and the date, time and place of the public hearing to be held by the Village Council.
- (9) The Village shall notify by first-class mail all of the owners of the property which is the subject of the application, and all of the owners of property within 500 feet in all directions from the boundaries of the subject property involved, of the application for the change of zoning and the date, time and place of the public hearing by the Village Council. For the purposes of this subsection, the owners of the subject property and of all property within 500 feet shall be deemed to be the persons shown on the current ad valorem tax roll of the property appraiser of the county as being the owners and such notice shall be sent to the address given in the roll for each owner. The Village shall publish in a newspaper of general circulation in the Village a notice of the public hearing to be held by the Village Council. The notices shall be deposited in the mail not less than 14 days, and the advertisement shall be published not less than 10 days, prior to the date of the public hearing.
- (10) Upon first reading of the rezoning, the Village Council shall recommend approval or denial of the rezoning, but may not recommend approval with any condition.
- (11) The city clerk shall set a date for the public hearing to be held by the Village council upon the rezoning ordinance, and shall notify by mail the persons described in (9) above of the date, time and place of the public

hearing. The city clerk shall cause to be published in a newspaper of general circulation in the city a notice of the date, time and place of the public hearing at least 10 days prior to the public hearing, and shall otherwise comply with the notice and procedural requirements of F.S. § 166.041 pertaining to ordinances which rezone private real property.

Consistency with the Comprehensive Plan

- (1) No real property shall be rezoned, and no amendment to this chapter shall be adopted, unless such action is consistent with the comprehensive plan of the city.
- (2) The planning and zoning board shall include in its recommendation upon any rezoning application, and upon any ordinance amending the zoning code submitted to the planning and zoning board for review, a finding that the proposed action is or is not consistent with the comprehensive plan.

Rezoning Protests

- (1) Protest against any rezoning may be filed prior to the adoption of the ordinance which, if adopted, would effect the rezoning, and the ordinance shall not be adopted except upon the affirmative vote of 4 or more members of the Village council if the protest satisfies each of the following requirements:
 - (a) The protest shall be filed with the city clerk not later than 1:30 p.m. on the day before the day the ordinance is scheduled for public hearing.
 - (b) The protest shall be in writing in the form of a petition, all counterparts of which shall be assembled as 1 instrument for filing.
 - (c) The petition and each counterpart thereof shall contain a clear and concise statement of the rezoning that is opposed, 1 or more lines for signatures, and a form of affidavit under oath for the circulator of the petition or counterpart, verifying the fact that the circulator saw each person sign, that each signature is the genuine signature of the person it purports to be of, and that the petition or counterpart was signed in the presence of the circulator on the date indicated.
 - (d) Each signature shall be executed in ink and shall precede or be followed by the name and address of the person signing, typed or in legible manuscript, and the date of the signature.
 - (e) The petition shall bear the signatures of not less than 20 percent of the number of owners of parcels of land within 500 feet in all directions away from the boundaries of the property which is the subject of the rezoning ordinance.
- (2) Where a parcel of land is owned by 2 or more persons, only 1 protest shall be allowed for that parcel to satisfy the requirements of this section, and the signature of only 1 of the owners shall be required on

the protest petition in order for the protest to be counted. For the purposes of this section, a unit of land in condominium or other collective ownership shall be deemed to be a parcel of land.

Sec. 17-61. Requirements and Procedures for Appeals.

(a) *Appeal of an Administrative Decision.*

Any aggrieved person may appeal a decision of Planning and Zoning Director to the Village Council. The appeal shall be in writing, specifying the grounds thereof on a form provided by the Village and shall be accompanied by an application fee. The appeal shall be filed with the Village within 30 days of the date the administrative decision is made. The Village Council shall hear and rule upon the appeal after a public hearing.

b) *Appeal of a Village Council Decision.*

Any aggrieved person may appeal a decision of the Village Council in a court of competent jurisdiction.

(c) *Aggrieved person.*

The following qualify as aggrieved persons for purposes of this section:

- (1) The Village;
- (2) The applicant for a development permit; and,
- (3) Any person or entity which will suffer to a greater degree than the general public an adverse effect to a legally recognized interest protected or furthered by the zoning code or the comprehensive plan.

Sec. 17-62. Withdrawal of Development Applications.

An application for development review may be withdrawn at any time

For applications filed in accordance with this Chapter and subsequently withdrawn, the applicant may request a fee refund. The refund request must be made on a form provided by the Village. The amount of refund shall be based on the point in time of the review process for which the application withdrawal is initiated by the applicant in accordance with the following criteria:

Prior to staff review or legal advertisement submission (whichever comes first) . . . 75% refund

Prior to drafting of the staff report . . . 50% refund

Prior to the Village Council hearing on the application . . . 15% refund

No refund shall be granted if an applicant withdraws the application at the Village Council meeting in which the application is scheduled to be heard.

Sec. 17-63. Advertising and Notice Requirements.

(a) Advertising Requirements

The Village shall advertise in accordance with the provisions set forth below:

<u>Development Application and Type of Meeting</u>	<u>Type of Advertisement Required</u>
Comprehensive Plan (Comprehensive Plan) Amendments	As required by state law for the Village Council Meeting
Rezoning	As required by state law for the Village Council Meeting
Development of Regional Impact	As required by state law for the Village Council Meeting
Any other development application not mentioned above which requires a public hearing	An advertisement shall be published in the non-legal section of a local newspaper selected by the Village at least seven (7) days before the Village Council public hearing.
Administrative Adjustments	An advertisement shall be published in the non-legal section of a local newspaper selected by the Village.

(b) Public Notice

A sign shall be prepared and posted on the property by the Village setting forth a notice of public hearing at least five (5) business days before the Village Council meeting in which the item is scheduled to be heard. This notice shall remain posted on the property through the date of the public hearing and shall be removed within ten (10) business days following the Village Council's approval or denial of the application, or upon the application's withdrawal.

(c) Courtesy Notice

Property owners of record within a 500 foot radius of the property scheduled for a public hearing before the Village Council shall be mailed a courtesy notice. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken by the Village Council.

(d) Advertising and Notice Costs

All costs of advertising, noticing, mailings and posting shall be borne by the applicant.