To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Temporary Banner Signs Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING SECTION 30-90.24 OF THE LAND DEVELOPMENT CODE RELATING TO SPECIAL EVENT SIGNS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Administration)

BACKGROUND:

On October 20, 2008, the Mayor and Village Council adopted Division 30-90, Sign Regulations (Ordinance No. 08-20), of the Village's Land Development Code, which established development standards for permitted signage throughout the Village. The expressed purpose and intent of the regulation is to ensure signage throughout the Village is "safe and aesthetically pleasing … [and] do[es] not create excessive visual clutter and distraction or hazards for pedestrians and vehicles."[1] As part of the sign code there was created Section 30-90.24, which provided for signage associated with special events and promotions. The provision sought to accommodate those occasions a business or other entity desired to advertise such an activity.

The current provision requires a temporary sign to be 3'x10', with a posting not to exceed 30 days. The process is managed in the Planning and Zoning office and there is no fee associated with the application. The current code does not require any form of permitting nor does it limit the number of special event banner signs any one business or entity is entitled to receive. The result has been a steady increase in this form of signage. In some instances, businesses come in monthly to renew their banner. Others have stopped coming in and just left the signs up. Although enforcement upon the latter group could be pursued, their remedy is simply submitting a new application with a stated special event or promotion (ie, "Two for One Special"). The result is an increase in a signage type that may be considered contrary to the stated objective and purpose provided in this first paragraph of this report.

It remains the desire of the Village to provide opportunity to any given business to have signage associated with a special event or promotion. It is believed however, that continued proliferation of such signage types is contrary to the stated intent and purpose. This may result in consistent permanent sign types and ad to cluttering along facades and street frontages. Excessive temporary

[1] Sections 30-90.3 & 4 provide both a finding of fact and a more complete Purpose and Intent than that stated above. The two sections serve as an affirmative defense for the regulation of various signage types throughout the Village.

signage along streets may be considered distracting to motorist and pedestrians. Thus, staff recommends the following modifications to Section 30-90.24:

1. Adjust sign size from 3'x10' to a maximum of 30 square feet; and
2. Limit such advertising to commercial entities to three (3) times in any 12 month period.

Changing the sizing standard allows a business greater flexibility in the shape of the sign while providing an overall square footage consistent with current Code. Establishing a frequency with which such signage may be utilized by any given business provides staff with the tools needed to ensure the stated intent and purpose provident in the first paragraph above is met.

ANALYSIS:
The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). The Background section provided above shall be considered supplemental information to this analysis and thusly shall be incorporated into each criterion delineated below. The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan do not address signage requirements.

Finding: Not applicable.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-90 in that it is seeks to fulfill the stated Intent and Purpose of Division 30-90.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background section of this report. As reflected in the Background Section of this report, use of this existing temporary sign provisions has gradually increased throughout the Village. The current standard provides staff with few tools to manage their usage in a manner consistent with the state Intent and Purpose.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background section of this report. The proposed ordinance does not change permitted uses.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance does not impact the above systems.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis Please see Background Section of this report. The proposed ordinance seeks to align the temporary signage program with the stated Intent and Purpose of Division 30-90. It does so by ensuring greater uniformity in signage while avoiding clutter and nuisance.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 and 7.

Finding: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:
There is no fee proposed at this time associated with the required permit element of this amendment. As the program is developed, it will be monitored to see if there is any appreciable fiscal impact.

RECOMMENDATION:
Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; AMENDING SECTION 30-90.24 OF THE LAND DEVELOPMENT CODE RELATING TO SPECIAL EVENT SIGNS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Administration)

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-90, Sign Regulations, of the Village's Land Development Code, establishing development standards for permitted signage throughout the Village; and

WHEREAS, in recognizing that business and other organizations may have special events and or promotions, Section 30-90.24 was adopted as part of Division 30-90 to provide regulations regarding temporary signage associated with such events; and

WHEREAS, because Section 30-90.24 mandated a specific dimension for special event signs and provided no limitation as to their frequency of use, 3'x10' banners have become common throughout the Village of Palmetto Bay, some of which routinely seek monthly renewals thus circumventing the original intent of the 2008 adopted provisions; and

WHEREAS, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been designated as the Local Planning Agency for the Village; and

WHEREAS, on April 6, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to clarify the regulations regarding special event signage by providing a maximum permitted size of 30 square feet, and to limit the frequency of such signage for any given business or organization to three (3) periods of maximum 30 days each in a twelve (12) month period.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Section 30-90.24 of the Village's Code of Ordinances entitled "Special event signs" shall be amended as follows:

DIVISION 30-90. - SIGN REGULATIONS

* * *

Sec. 30-90.24. - Special event signs.

~~One three-foot by ten-foot special~~ Permit required. One special event banner or other similar temporary sign not exceeding 30 square feet is permitted on-premises ~~per~~ in association with a special events ~~in commercial and mixed use districts~~ occurring at the premises. The ~~banner~~ special event sign may be two sided. If the ~~banner~~ special event sign is placed on property with more than

To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Parking Waiver Procedure Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Administration)

BACKGROUND:

The Village of Palmetto Bay has approximately 1,000 active businesses within its jurisdictional boundaries. The turnover rate averages approximately 10% of that total every year. Most of the new businesses that (re)locate within the Village typically have business models that neatly comport to the Village's parking standards, and that of the parking facilities available, at their new location. There are however times when the business model and the receiving locale do not sync well with the Village's established parking standards. Under current Code the available remedy is a variance; a process that may prove to be both timely and expensive. The proposed ordinance offers an alternative path which relies upon the actual demands of the proposed business relative to the facilities available at the site. To understand the nature of the proposal, the following is offered for your consideration:

On October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which provided parking standards for uses within the Village. The Village's parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village's commercial development was constructed prior to 1970[1], and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre-1970's development standards.

Parking categories are broken down into categories such as retail, office, medical, assembly, etc. As stated above, the majority of new business requests do in fact conform to current Code, but not all do. The challenge presented to Village staff and to a prospective business looking to set up shop in

[1] This data was culled by CoStar, a real estate data service provided, and was provided to the Village as part of Lambert Advisory's, Downtown Redevelopment Task Force market report.

the Village is when the operational demands of the use relative to the receiving property does not comply with the parking code.

One solution would be to completely rewrite that portion of Code that sets the parking amount standard. However, this exercise is not without its own problem. First, changing the parking standards cart blanc runs the risk of creating parking nonconformities across the vast majority of existing development within the Village. This could result in greater challenges in located new business than exists today. Further, given most requests for new businesses do comply with Code, such an amendment could be deemed unnecessary.

A second alternative would be to create a unique parking standard for new or altered uses not fully contemplated by current Code. Such an example would be an MRI facility. Classified as diagnostic, its parking standard is significantly higher than its actual operational demand. MRI facilities need more space due to equipment, yet see fewer patients than say a facility that merely draws blood. Current parking standards would prevent such a facility from locating in an industrial flex space that is typically built with fewer parking stalls. This despite the fact that it may be demonstrated, by way of a parking study, that the property is capable of managing the demands of the use. The deficiency with the individualized parking standards approach is first, it makes the Code reactive and adds unnecessary delay to the prospective business as they await an ordinance change. Second, should such an approach be followed, the Village could end up with an endless list of uses with unique parking standards.

Another potential challenge presented to a prospective business occurs when locating within a multi-tenant center. The Code requires all parking to be calculated as if the center were fully leased with all businesses operating at the same time. However, not all businesses share the same operational hours. Some close by mid-day, others only open in the evening. Some may be open all day but have customer volumes that occur at predictable times (i.e. karate studio or breakfast/lunch diner). There are jurisdictions that remedy this conflict with provisions that contemplate the hours of operation of a particular business. The Village could pursue such a Code; however the attached proposed ordinance is capable of achieving the same result while addressing a broader issue discussed above.

The proposed ordinance recognizes that not all businesses share the identical operational demands. It offers a remedy that is more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review and approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to purse the variance option. The fee for parking analysis review shall be half of that for a non-use variance. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance fee plus any other costs associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for

new developments shall be built according to the standards provided by each use category as applicable.

ANALYSIS:
The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). The Background section provided above shall be considered supplemental information to this analysis and thusly shall be incorporated into each criterion delineated below. The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan do not address parking requirement.

Finding: Not applicable.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it that is seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. No parking study shall be approved that fails to demonstrate adequate parking exists to accommodate a use(s) at a particular property.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background section of this report. As reflected in the Background Section of this report, considerable time has passed since the adoption of the first parking code and the development commercial portions of the Village. The proposed amendment offers an avenue for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the legal conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background section of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent of the parking study is to determine if approving the new use would create such an impact. If one exists, the application is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land. It only applies to existing developments.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 4 and 7.

Finding: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:
It is anticipated that the cost to process requests contemplated by the proposed ordinance, be fiscally neutral.

RECOMMENDATION:
Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ITEM 12B

To: Honorable Mayor and Village Council

Date: February 23, 2015

From: Ron E. Williams, Village Manager

Re: Parking Waiver Procedure Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Administration)

BACKGROUND:

The Village of Palmetto Bay has approximately 1,000 active businesses within its jurisdictional boundaries. The turnover rate averages approximately 10% of that total every year. Most of the new businesses that (re)locate within the Village typically have business models that neatly comport to the Village's parking standards, and that of the parking facilities available, at their new location. There are however times when the business model and the receiving locale do not sync well with the Village's established parking standards. Under current Code the available remedy is a variance; a process that may prove to be both timely and expensive. The proposed ordinance offers an alternative path which relies upon the actual demands of the proposed business relative to the facilities available at the site. To understand the nature of the proposal, the following is offered for your consideration:

On October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which provided parking standards for uses within the Village. The Village's parking code was modeled after Miami-Dade County which originally adopted theirs in 1957. Approximately 78% of the Village's commercial development was constructed prior to 1970[1], and built to the standards of that Code. Since that time, new uses have come into being, others have adjusted their operational models, while others still have ceased to operate or even exist. Put into context, the occasion arises that 21st century uses and business models are trying to fit themselves into pre-1970's development standards.

Parking categories are broken down into categories such as retail, office, medical, assembly, etc. As stated above, the majority of new business requests do in fact conform to current Code, but not all do. The challenge presented to Village staff and to a prospective business looking to set up shop in

[1] This data was culled by CoStar, a real estate data service provided, and was provided to the Village as part of Lambert Advisory's, Downtown Redevelopment Task Force market report.

the Village is when the operational demands of the use relative to the receiving property does not comply with the parking code.

One solution would be to completely rewrite that portion of Code that sets the parking amount standard. However, this exercise is not without its own problem. First, changing the parking standards cart blanc runs the risk of creating parking nonconformities across the vast majority of existing development within the Village. This could result in greater challenges in located new business than exists today. Further, given most requests for new businesses do comply with Code, such an amendment could be deemed unnecessary.

A second alternative would be to create a unique parking standard for new or altered uses not fully contemplated by current Code. Such an example would be an MRI facility. Classified as diagnostic, its parking standard is significantly higher than its actual operational demand. MRI facilities need more space due to equipment, yet see fewer patients than say a facility that merely draws blood. Current parking standards would prevent such a facility from locating in an industrial flex space that is typically built with fewer parking stalls. This despite the fact that it may be demonstrated, by way of a parking study, that the property is capable of managing the demands of the use. The deficiency with the individualized parking standards approach is first, it makes the Code reactive and adds unnecessary delay to the prospective business as they await an ordinance change. Second, should such an approach be followed, the Village could end up with an endless list of uses with unique parking standards.

Another potential challenge presented to a prospective business occurs when locating within a multi-tenant center. The Code requires all parking to be calculated as if the center were fully leased with all businesses operating at the same time. However, not all businesses share the same operational hours. Some close by mid-day, others only open in the evening. Some may be open all day but have customer volumes that occur at predictable times (i.e. karate studio or breakfast/lunch diner). There are jurisdictions that remedy this conflict with provisions that contemplate the hours of operation of a particular business. The Village could pursue such a Code; however the attached proposed ordinance is capable of achieving the same result while addressing a broader issue discussed above.

The proposed ordinance recognizes that not all businesses share the identical operational demands. It offers a remedy that is more nimble than a variance request or change of law, and one that would be considerably less timely or expensive to pursue. Where it is determined that a parking deficiency exists, the prospective business owner may complete a parking study to determine if the operational demands of the use does not over burden the property where it is to be located. The review and approval, denial or approval with conditions, of that plan would be completed administratively. If the applicant and staff do not agree, the owner may elect to purse the variance option. The fee for parking analysis review shall be half of that for a non-use variance. Appeal of the administrative final decision shall be by way of non-use variance upon which the application shall pay other half of the variance fee plus any other costs associated with the application and hearing as provided by ordinance. The relief procedure shall only be available to existing development. Parking facilities for

new developments shall be built according to the standards provided by each use category as applicable.

ANALYSIS:
The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30.7(b). The Background section provided above shall be considered supplemental information to this analysis and thusly shall be incorporated into each criterion delineated below. The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the Village's Concurrency Management Program.

Analysis: The Village's Comprehensive Plan or Concurrency Management Plan do not address parking requirement.

Finding: Not applicable.

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: Please see Background section of this report. The proposed ordinance is internally consistent with the remaining portions of Section 30-70 in that it that is seeks the (unstated) intent to ensure adequate parking is provided on site for those uses approved thereon. No parking study shall be approved that fails to demonstrate adequate parking exists to accommodate a use(s) at a particular property.

Findings: Consistent.

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: Please see Background section of this report. As reflected in the Background Section of this report, considerable time has passed since the adoption of the first parking code and the development commercial portions of the Village. The proposed amendment offers an avenue for relief when such standards fall out of sync with the proposed use; and it does so in a manner that does not compromise the legal conforming status of the receiving property.

Findings: Consistent.

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: Please see Background section of this report. The proposed ordinance does not change permitted uses. It merely provides a level of flexibility when siting business within the Village. The intent of the parking study is to determine if approving the new use would create such an impact. If one exists, the application is denied, if it does not, then it is approved.

Finding: Consistent.

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not alter permitted use, intensities or densities. As such, it does not impact the above systems.

Finding: Consistent.

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance may only affect existing parking facilities and does not impact the above systems.

Finding: Consistent.

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis It is anticipated, though not quantified, that the ordinance will likely have a positive effect on property values. The logic is as follows; a fully rented commercial facility is worth more than one partially or fully unleased.

Findings: Consistent.

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use pattern shall be identified.

Analysis The proposed ordinance does not change permitted uses or change any provisions which affect the development of land. It only applies to existing developments.

Findings: Consistent.

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: See Analysis under Criteria 2, 3 4 and 7.

Finding: Consistent.

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Analysis: As per the direction of the Village Council.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:
It is anticipated that the cost to process requests contemplated by the proposed ordinance, be fiscally neutral.

RECOMMENDATION:
Decision for the Village Council.

Darby Delsalle, AICP
Planning & Zoning Director

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING; CREATING SECTION 30-70.2(b)(4) OF THE LAND DEVELOPMENT CODE RELATING TO REQUIRED PARKING EXEMPTIONS; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Administration)

WHEREAS, on October 20, 2008, the Mayor and Village Council adopted Ordinance 08-20, which established Division 30-70, Required Parking, of the Village's Land Development Code, which included Section 30-70.2(b), establishing the conditions under which a property may be exempt from parking requirements; and

WHEREAS, it is in the public interest for the Village to provide regulations for parking consistent with industry standards and practices, available technologies, available land resources, and traffic engineering in an effort to protect public security, privacy, and welfare, and

WHEREAS, it is further in the public interest for the Village to provide under proper circumstances for a waiver of the applicable requirements for parking facilities for existing developments, so that the issuance of a parking reduction waiver is in the public interest under such circumstances; and

WHEREAS, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been designated as the Local Planning Agency for the Village; and

WHEREAS, on April 6, 2015, the Local Planning Agency approved the proposed amendment; and

WHEREAS, the Mayor and Village Council, now desire to establish a procedure through which the citizens and/or property owner of the Village may request a parking reduction waiver, and through which the Village may approve, deny or approve with conditions such requests.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Section 30-70.2(b)(4) of the Village's Code of Ordinances shall be created to read as follows:

DIVISION 30-70. - PARKING AND LOADING STANDARDS

* * *

Sec. 30-70.2. - Location of required parking; exceptions.

* * *

(b) Exemptions.

* * *

(4) Parking Reduction Waiver Request. It is acknowledge that for parking calculation purposes, parking requirements and demand may shift for existing developments over time as the use or mix of uses change. In cases where the required parking, as provided for in this Division, for a proposed use exceeds the amount of spaces available on the receiving property, the applicant may request a Parking Reduction Waiver in lieu of pursuing a public hearing variance.

(1) Eligibility. These provisions shall only apply to existing developments.

(2) Application. All Parking Reduction Waiver Requests shall conform to the following:

a. The applicant shall file an application and pay a filing fee equal to half the cost of a non-use variance modification,

b. The application shall include a parking study confirming whether or not the existing facilities can accommodate the proposed use. The parking study shall be prepared by a certified engineer, licensed in the State of Florida with expertise in parking, and shall be paid for by the applicant. The Village may hire its own engineer, at the applicant's expense, to evaluate applicant's parking study.

c. Other plans and documentation necessary to evaluate the request.

(3) The Director of Planning and Zoning, or his/her designee, shall either approve, approve with conditions, or deny the request. Any approval shall be specific to the applicant's requested use and will be deemed null should the operations cease for a period of six (6) months or longer. Any expansion of the approved use shall require full compliance with required parking or resubmission of a waiver request as provided by this section. Denial of a waiver request may be appealed to the Mayor and Village Council pursuant to public hearing variance procedures as provided at Division 30-30 of the Village's Land Development Code. All applicable public hearing fees shall apply however the application fee shall be half the cost of a non-use variance modification.

Section 2. **Conflicting Provisions.** The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. **Severability.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be

invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Codification.** It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. **Effective Date.** This ordinance shall take effect immediately upon enactment.

PASSED and ENACTED this ____ day of _____, 2015.

First Reading: _____

Second Reading: _____

Attest: _____

Meighan Alexander
Village Clerk

_____

Eugene Flinn
Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

_____

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO TRAFFIC; AMENDING VILLAGE CODE CHAPTER 28, ARTICLE II, CONCERNING GOLF CART USE ON CERTAIN DESIGNATED STREETS OR ROADS, PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (Councilman Tim Schaffer)

WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay had adopted regulations in accordance with the Chapter 316 of the Florida Statutes concerning permitting of golf carts and regulation of the operation of golf carts within Village limits; and,

WHEREAS, the Mayor and Village Council desire to amend Chapter 28, Article II, in order to provide clarity of the regulations.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Chapter 28, Article II "Golf Cart Use on Designated Streets or Roads" is modified as follows:

ARTICLE II. - GOLF CART USE ON CERTAIN DESIGNATED STREETS OR ROADS

Sec. 28-51. - Golf carts, legislative intent.

It is the intent of this section to permit and regulate the operation of golf carts upon the designated streets of the village, during non-restricted hours by licensed drivers operating golf carts which have passed a safety inspection. This article is adopted to address the interest of public safety. Golf carts, also known as GCVs, is to be regulated to address safety issued. Adoption of this article is not to be relied upon as a determination that operation of the GCV or golf cart on roads is safe or advisable. All persons who operate or ride in golf carts, GCVs, on roads do so at their risk and peril, and must be observant of, and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists and pedestrians. The village has no liability under any theory of law for permitting golf cars, GCVs to be operated on roads under this chapter. Any person who operates a golf cart, GCV, is responsible for procuring liability insurance as required under this chapter, and Florida law, which requirement is a condition to using a golf cart, GCV, on the roads of the village.

Sec. 28-52. - Definitions.

The following words and phrases when used in this chapter shall have the definitions respectively ascribed to them in this section. Whenever any words or phrases used in this chapter are not defined but are defined in the F.S., Ch. 316 and any amendments thereto, such definitions shall apply.

Designated streets means all streets within the village except Old Cutler Road, U.S. Highway 1 (a/k/a Palmetto Bay Parkway); SW 136 Street; ~~SW 144th Street~~; SW 152nd Street; SW 168th Street; SW 184th Street; SW 67th Avenue; SW 77th Avenue; ~~SW 82nd Avenue~~; SW 87th Avenue; and SW 97th Avenue; (no use of Old Cutler Road or bridges permitted, except as specifically designated below).

Golf cart means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes as defined in F.S. §316.003(68) and 320.01(22). ~~and that can be considered a "Golf Car Based Product Vehicle" (GCV), which is a self-propelled vehicle with a minimum of four wheels, capable of a maximum level ground speed of less than 20 miles per hour (MPH) (30 km/h), maximum rated pay load capacity of 1200 pounds (545 Kg), maximum gross vehicle weight (GVW) of 2,500 pounds (1,135 kg), capable of transporting not more than four persons and which complies with the safety operations standards established in this chapter. A GCV chassis and drive mechanism shall conform to the GCV profile. The profile addresses the physical characteristics of the vehicle, which means a four wheel vehicle built on a golf cart chassis and rive mechanism with tires furnished or recommended by the applicable GCV OEM manufacturer and as is further set forth in either ANSI/NGCMA Z135-2004 or ANSI/ITSDF B56.8-2006, Safety Standard for Personnel and Burden Carriers. Where applicable, batter electric GCVs will be recognized as "electric vehicles" or "zero emission vehicles" and hybrid GCVs will be recognized as "alternative fueled vehicles" as provided under Florida Law, F.S. chs. 316, 320, and 334. Low speed vehicles are not golf carts.~~

Permit. An official authorization designating that the golf cart to which the authorization is affixed meets the requirements of state law and the Village Code and/or code of adjacent municipalities.

Sec. 28-53. - Operation of golf cart.

The operation of a golf cart within the Village of Palmetto Bay is strictly prohibited unless the golf cart is operated and equipped in full compliance with this chapter.

Sec. 28-54. - Authorized use.

(a) Licensed drivers may operate golf carts which have registered~~,~~ and been issued a permit~~s~~ by the village on all designated streets within the village or a neighboring jurisdiction's drivers on all designated streets of the village ~~between a half hour after sunrise and a half hour prior to sunset for all golf carts~~ <u>and must have all required equipment (in working order), as defined in Section 28-58</u>.

(b) A permit to use a golf cart on a designated street does not permit entry onto private property or semi-private property, including retail parking lots, private roads or common areas in condominiums. Access to these areas may be regulated by the property owners and/or property managers.

~~(c) The storage of the golf carts shall not occur within ten feet of any property line that faces a street.~~

~~(d) All golf carts, GCVs, between sunset and sunrise, fog, smoke and rain must be equipped with headlights, brake lights, turn signals and a windshield.~~

Sec. 28-55. - Prohibited use.

The operation in the village of any golf cart in the following manner or under the following conditions is prohibited:

(a) Without a valid, current driver's license;
(b) Without a valid, current permit issued by the village or a neighboring jurisdiction and affixed to the golf cart in a conspicuous location;
(c) In violation of state or county traffic and insurance regulations;
(d) Anywhere on the roadway surface of Old Cutler Road, except to cross that thoroughfare at marked intersections or intersections regulated by a traffic signal upon the nondesignated streets solely for the purpose of reaching the immediately next intersection. The operation of golf carts upon nondesignated streets pursuant to this subsection;
(e) Shall be subject to authorization from Miami-Dade County pursuant to F.S. §316.212(1);
(f) On the sidewalks, swales or parks of the village;
(g) Parking in violation of posted regulations;
(h) Obstructing or interfering with normal traffic flow;
(i) Carrying more occupants in a golf cart than the number of persons for whom factory seating is installed and provided on the golf cart;
(j) Standing and extending body parts outside the perimeter of the golf cart while the golf cart is being operated; and
(k) The operation of an ATV, as defined in F.S. § 317.0003, upon the public roads or streets is prohibited.

Sec. 28-56. - Registration.

(a) All golf carts, GVCs, operated on village designated streets must first be registered through the village or through a neighboring jurisdiction and a registration sticker must be placed on the rear fender of the golf cart, GVC.
(b) Registration of golf carts, GCVs, must be made by the owner who is at least 18 years of age.
(c) The owner of the golf cart, GCV, will be charged an initial permit application/registration fee of $50.00.
(d) The renewal permit/registration fee thereafter shall be $10.00.
(e) Driving a golf cart without a current village registration will result in a noncriminal, civil citation of $150.00.
(f) A list of all golf carts, GCV, registrations will be maintained by the village.
(g) Funds from registration fees will support costs of village administration of the golf cart, GCV, and registration stickers.
(h) At registration, and annually thereafter, the applicant shall file a notarized, verified affidavit that the golf cart, GCV, being registered complies with all the conditions contained in this ordinance, including all safety requirements required under section 28-58. Failure to execute and provide the notarized, verified affidavit shall result in the village's rejection of the permit request.
(i) The village shall issue a permit to a golf cart, GCV, which complies with all requirements identified herein. The permit shall be displayed in a conspicuous location on the golf cart, GCV.

(j) Proof of insurance through a homeowner's policy of liability and property damage coverage shall be provided to the village, annually. Failure to provide proof of coverage shall result in termination of registration of the golf cart or GVC.

Sec. 28-57. - Reserved.

Sec. 28-58. - Required equipment.

In order to be permitted for use in the village, a golf cart, GCV, is to be equipped with:

(a) Efficient locking brakes;
(b) Reliable steering apparatus;
(c) Safe tires;
(d) Rear view mirrors;
(e) Red reflectorized warning devices, both in the front and the rear;
(f) Front headlights, rear tail lights, and rear brake lights, ~~Rear stop lamps~~ meeting the minimum standards of F.S. §316.234(1);
(g) Turn signals, meeting the minimum standards of F.S. §316.234(2);
(h) Safety belts for drivers and passengers;
(i) ~~Head lamps, reflex reflectors and tail lamps (rear position lamps as set forth in ANSI/NGCMA Z135-2004, American National Standard for Personal Transport Vehicles - Safety and Performance Specifications~~; Reverse warning device;
(j) ~~Main power switch;~~ Horn;
(k) Safety labels; ~~and~~
(l) Manufacturer's serial number plate; and
(m) Windshield.

Sec. 28-59. - Reserved.

Sec. 28-60. - Operators.

Drivers must hold a current, valid driver's license and insurance in order to operate a golf cart, GCV, upon the streets of the village.

Sec. 28-61. - Traffic laws.

(a) Operators of golf carts, GCVs, using designated streets within the village are required to observe all applicable state and local traffic laws as if they were operating any other motor vehicle.
(b) While traveling on designated streets, operators and passengers of golf carts, GCVs, must comply with applicable state law as to the requirements and usage of safety belts and child restraint equipment.
(c) Owners and operators of golf carts shall comply with applicable state law pertaining to insurance requirements.
(d) Golf carts, GCVs, may be ticketed for traffic violations in the same manner as motor vehicles.

Sec. 28-62. - Penalty.

A violation of any provision of this chapter shall constitute a violation of Chapter 28 of the Code of Ordinances of the Village of Palmetto Bay. Upon a finding that an owner, lessee or operator of a golf cart, GCV, has violated any provision of this chapter, such person shall be subject to a noncriminal, civil citation not to exceed $150.00 for each offense relating to a violation of this chapter, including but not limited to the failure to obtain a permit/registration, and as per Florida Statutes for every other violation of state law.

Sec. 28-63. - Enforcement.
The village police department with the assistance of code compliance shall be responsible for enforcing this Chapter 28 of the Code of Ordinances of the Village of Palmetto Bay.

Secs. 28-64—28-100. - Reserved.

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Section 4. **Conflicting Provisions.** The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. **Severability.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. **Codification.** It is the intention of the Village Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. **Effective Date.** This ordinance shall take effect immediately upon enactment.

First reading: _____

Second reading: _____

PASSED AND ENACTED this _____ day of _____, 2015.

Attest: _____ _____

Meighan Alexander — Eugene Flinn
Village Clerk — Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY, FLORIDA ONLY:

_____

Dexter W. Lehtinen
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Karyn Cunningham _____

Council Member Tim Schaffer _____

Council Member Larissa Siegel Lara _____

Vice-Mayor John DuBois _____

Mayor Eugene Flinn _____