



To: Honorable Mayor and Village Council

Date: December 7, 2015

From: Edward Silva, Village Manager

Re: Appeals Sec. 30-30.14
Ordinance for 1st Reading

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, RELATING TO SECTION 30-30.14, "APPEALS"; AMENDING SECTIONS 30-30.14(a)(2) AND 30-30.14(c); TO ALLOW PRIVATE PROPERTY WITH A VILLAGE COUNCIL ISSUED DEVELOPMENT ORDER TO PROCEED TO PERMITTING AND CONSTRUCTION DURING THE APPEAL OF THAT ORDER, SUBJECT TO SPECIFIED CONDITIONS; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

BACKGROUND:

On November 2, 2015, the Village of Palmetto Bay Council adopted provisions that allow for approved government facility zoning applications to proceed to permitting and construction, subject to specified conditions, despite the approval being the subject of legal challenge. During the first reading of that item, it was requested by the Council that the same provision be applied to private development as well. Because appeals related to development orders for private property are contained under separate code sections a separate ordinance is required. As with the prior ordinance, the same conditions would apply. Specifically, any private property owner that decides to proceed to permitting and construction during such time that their development order is the subject of an appeal does so at their own risk.

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 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 Comprehensive Plan does not address appeals of development orders.

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. Before a development order can be approved, there must be a determination of consistency with Chapter 30 of the Village's Land Development Regulations. If the determination requires modification due to an outcome of an appeals process, the private property owner will be required to make the necessary modifications.

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. There is no specific land use policy regarding appeals. Regardless, the proposed amendment allows an approved development order to proceed to permitting and construction, at that property owner's own risk, while maintaining the integrity of the existing code.

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 Criteria 2 and the Background section of this report.

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: Please see Criteria 2 and 3, and the Background section of this report. The proposed ordinance does not alter permitted uses, intensities, or densities.

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: Please see Criteria 2 and 3, and the Background section of this report. 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 Criteria 2 and 3, and the Background section of this report. The proposed ordinance does not impact property values or adversely affect the general welfare.

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: Please see Criteria 2 and 3, and the Background section of this report. The proposed ordinance does not create any positive or negative effects on the land use pattern.

Findings: Not applicable.

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: Please see Criteria 2, and 3, and the Background section of this report.

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.

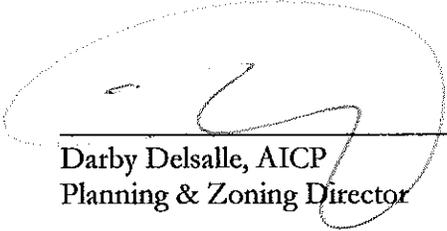
Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

None anticipated at this time

RECOMMENDATION:

Approval.



Darby Delsalle, AICP
Planning & Zoning Director

1 (c) *Appeals from actions, decisions or determinations of the village administration.* Any person regulated
2 by this division who is aggrieved by any action, decision or determination of the village
3 administration due to an administrative review, as provided in this division, may request
4 ~~an administrative~~ a quasi-judicial public hearing before the village council to appeal the
5 action, decision or determination of the village review which resulted in the grievance.
6 Appeal by ~~administrative quasi-judicial~~ hearing of the final administrative action, decision
7 or determination complained of shall be accompanied by filing a written request with the
8 village within 15 calendar days of the date of the action, decision or determination
9 complained of. The written notice of appeal shall set forth the nature of the action,
10 decision or determination to be reviewed and the basis for the ~~administrative quasi-judicial~~
11 hearing. Customers or the business or use regulated shall not be deemed to be persons
12 regulated by this division for the purposes of this section. The appeal shall clearly state
13 that the denial of the application ~~for the variance~~ constitutes an error by the village, ~~and~~
14 ~~that the~~ in its interpretation or implementation of any portion of the regulations or criteria
15 set forth that are applicable to the application. ~~in this section.~~ The ~~village council request~~
16 ~~for appeal~~ shall be set ~~the matter~~ for hearing on the earliest practicable regularly scheduled
17 hearing date. An appeal of the final administrative action, decision or determination shall
18 be a de novo, quasi-judicial public hearing and final determination by the village council
19 shall be by written determination approving, approving with conditions, or denying the
20 request related to the administrative action, decision or determination. ~~The village council~~
21 ~~shall hear and consider all relevant and the council may affirm, modify or reverse the~~
22 ~~action, decision or determination appealed from.~~ The decision of the village council shall
23 ~~constitute~~ be final administrative review and no rehearing shall be permitted. Nothing
24 herein shall be construed to prevent or prohibit the village from instituting any civil or
25 criminal action or proceeding authorized by this division at any time. ~~The village council~~
26 ~~shall conduct a de novo, quasi-judicial public hearing on the appeal and issue a written~~
27 ~~determination approving, approving with conditions, or denying the variance.~~ No
28 administrative development orders shall be issued to a property subject to the appeal of an
29 administrative action, decision, or determination.

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31 **Section 3. Conflicting Provisions.** The provisions of the Code of Ordinances of the
32 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
33 provisions of this ordinance are hereby repealed.

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35 **Section 4. Severability.** The provisions of this Ordinance are declared to be severable,
36 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
37 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
38 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
39 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

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41 **Section 5. Codification.** It is the intention of the Village Council and it is hereby
42 ordained the provisions of this Ordinance shall become and be made part of the Code of
43 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
44 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
45 changed to "Section" or other appropriate word.

1 **Section 6. Effective Date.** This ordinance shall take effect immediately upon
2 enactment.
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5 **PASSED and ENACTED** this ____ day of _____, 2016.
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8 First Reading: _____

9 Second Reading: _____

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13 Attest: _____
14 Meighan Alexander
15 Village Clerk

Eugene Flinn
Mayor

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17 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
18 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
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20
21 _____
22 Dexter W. Lehtinen
23 Village Attorney

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26 FINAL VOTE AT ADOPTION:
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28 Council Member Karyn Cunningham _____
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30 Council Member Tim Schaffer _____

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32 Council Member Larissa Siegel Lara _____

33
34 Vice-Mayor John DuBois _____

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36 Mayor Eugene Flinn _____

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ORDINANCE NO: _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATING TO PARKS AND RECREATION; AMENDING CHAPTER 20, ARTICLE 1, OF THE VILLAGE'S CODE OF ORDINANCE; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Palmetto Bay is desirous of amending Chapter 20, Article 1, in order to appropriately update information and provide modifications to the uniform fee schedule and other items concerning rules and regulations; and

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

Section 1. Chapter 20, Article 1, is hereby modified as follows:

Chapter 20 - PARKS AND RECREATION

ARTICLE I. - IN GENERAL

Sec. 20-1. - Applicability.

This chapter shall be applicable to all park users including leagues, youth organizations, school groups, private groups, party rentals, picnic rentals, pavilion/gazebo rentals, and field rentals. Each user shall complete a park rental agreement form that includes all rules and regulations.

Sec. 20-2. - Fees.

Fees shall include area of park being utilized, time of use, dates of use, equipment/materials needed, and/or number of participants in group:

Field Rental Reservations				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
2 (no prep)	\$40.00	\$2.80	\$30.00	\$72.80
2 w/lights (no prep)	\$60.00	\$4.20	\$30.00	\$94.20
Each additional hour add	\$25.00	\$1.75	N/A	\$26.75
Field Rental w/Prep add	\$20.00	\$1.40	N/A	\$21.40

Open Field Rental Reservations (does not include field prep: no lines)				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
2	\$40.00	\$2.80	N/A	\$42.80

Weekday (Non-Camp) Hourly Recreation Room Rental				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
1	\$35.00	\$2.45	N/A	\$37.45

Recreation Building Rental Reservations				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
Weekday (non-Camp) Hourly	\$35.00	\$2.45	\$100.00	\$137.45
Minimum 3 hrs.	\$110.00	\$7.70	\$100.00	\$217.70
Each additional hour	\$60.00	\$4.20	N/A	\$64.20
Tables (6 – 6ft tables) and Chairs (50)	\$30.00	\$2.10	N/A	\$32.10

Pavilion Rental				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
5 hours	\$165.00	\$11.55	\$100.00	\$276.55

Open Picnic Area Reservations (Hourly rates are not available)				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
4 hours	\$100.00	\$7.00	\$100.00	\$207.00
9:00 am – 5:00 pm	\$150.00	\$10.50	\$100.00	\$260.50

Bandshell Gazebo				
Total Hours	Rental Fee	Tax	Clean-up Deposit	Total Fee
4 hours	\$185.00	\$12.95	\$100.00	\$297.95
Each additional hour	\$60.00	\$4.20	N/A	\$64.20

Basketball Court Rental Palmetto Bay Park				
Total Hours	Rental Fee	Tax	Deposit	Total Fee
2 hours	\$40.00	\$2.80	\$30.00	\$72.80
Each additional hour	\$25.00	\$1.76	N/A	\$26.75
Lights – Add to rental amount	\$30.00	\$2.10	N/A/	\$32.10

Summer Camp Program			
Description	Weekly Fee	Tax	Total Fee
Weekly	\$135.00	\$9.45	\$144.45

Tennis and Racquetball Court Rental/Programs			
Description	Fee	Tax	Total Fee
Before 5pm- per hour/per person	\$5.00 <u>\$2.50</u>	\$.35 <u>\$.18</u>	\$5.35 <u>\$2.68</u>
After 5pm- per hour/per person	\$8.00 <u>\$3.50</u>	\$.56 <u>\$.25</u>	\$8.56 <u>\$3.75</u>
Tennis Private Lessons One (1) Hour	\$60.00	\$4.20	\$64.20
Tennis Private Lesson Half (½) Hour	\$35.00	\$2.45	\$37.45
Tennis Group Lesson One (1) Hour	\$20.00	\$1.40	\$21.40
Tennis Group Lesson One and a Half (1 ½) Hours	\$25.00	\$1.75	\$26.75

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Tennis Summer Camp Program			
Description	Weekly Fee	Tax	Total Fee
Half Day 9:00am to 12Noon	\$115.00	\$8.05	\$123.05
Full Day 9:00am to 3:00pm	\$175.00	\$12.25	\$187.25
Extended Day 9:00am to 6:00pm	\$225.00	\$15.75	\$240.75

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League or Club Fee

A fee of \$17.50 per registered participant per season and official registration documents from each league/club organization will be required, as well as the signed user agreement will be required prior to initial use of the park. A "league" or "club" shall be defined as an organized group, whether for profit or a non-for-profit organization that performs or conducts specific programming from a Palmetto Bay Park. All league users shall execute a village park user agreement.

Field Rental Fee

All groups, that are not defined as a "league" or a club, whether a church, school, or other organization, will be charged an hourly, field rental fee, based on the adopted fee schedule, based upon the amount of hours and space needed. All field rental users shall execute a field rental agreement.

Tournaments

All Village of Palmetto Bay tournament fees will be established by the village manager on an individual basis in accordance with operating costs. (e.g. insurance, softballs, umpires, etc.) All tournament vendors participating in Palmetto Bay tournaments must be pre-approved by the village and vendors will be required to pay a daily fee of \$75.00. No items competing with village concessions will be sold.

1 Film Location Fee

Video/Commercials/Movies/Film	\$450.00+ tax
Commercial Photography/Photo Shoot	\$250.00+ tax
Personal Photography/Photo Shoot	\$80.00+ tax

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3 Palmetto Bay Skate Pavilion

Skating Per Session Admissions Fee	Weekdays 4:00 pm to 9:00 pm Saturday 10:00 am to 2:30 pm Saturday 3:30 pm to 8:00 pm Sunday 12:00 pm to 6:00 pm	\$5.00 including tax
Helmet	Sale	\$15.00 + tax
Elbow, knee, wrist pads	Sale	\$15.00 + tax
Drinks	Sale	\$1.50 + tax
Weekly pass	7 sessions	\$20.00, including tax
Monthly pass	40 sessions	\$100.00, including tax

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5 Users of the skate park may purchase per the "per session" admission fee, or alternatively may
6 purchase either a weekly or monthly pass to the skate park. The weekly pass shall entitle unlimited
7 use, during the designated hours listed above, to the holder of the pass, for a seven session period.
8 The monthly pass shall entitle the holder unlimited use, during the designated hours listed above,
9 during a 30 session period.

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11 Edward and Arlene Feller Community Room and Amphitheater at Ludovici Park Fees

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13 Community Room:

Accommodates up to 50 people; includes use of light-food/beverage prep area. All community room rentals are subject to prior written approval from village manager.	
Weekdays 8:00 a.m. to 5:00 p.m.	\$75.00 per hour, with a minimum three-hour rental requirement
Daily rate: 8:00 a.m. to 5:00 p.m.	\$375.00
Nights 5:00 p.m. to 11:00 p.m. weekends/holidays 8:00 a.m. to 11:00 p.m.	\$100.00 per hour, with a minimum three-hour rental
Daily rate weekends/holidays	\$500.00
*AV equipment (set-up/break down by village personnel only)	
*\$500.00 refundable damage/clean-up deposit for any of the above rentals.	

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15 Amphitheater:

Weekdays:	\$75.00 per hour, with a four-hour minimum
Daily rate:	\$450.00
Weekends/holidays:	\$100.00 per hour; four-hour minimum
Daily rate:	\$600.00
Sound equipment (set up/break down by village personnel):	\$100.00 per hour
Daily rate:	\$600.00

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1 Gazebo

Weekdays:	\$50.00 per hour, with a three-hour minimum
Daily rate:	\$300.00
Gazebo with use of event/grass area:	\$75.00 per hour, with a three-hour minimum
Daily rate:	\$450.00
Weekends/Holidays:	\$75.00 per hour, with a three-hour minimum
Daily rate:	\$450.00
Gazebo with use of event/grass area:	\$100.00 per hour; three-hour minimum
Daily rate:	\$600.00
*Sound system fees and related needs same as noted under Amphitheatre.	

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3 Amphitheater/Gazebo/Event area:

Weekdays:	\$100.00 per hour, with a four-hour minimum
Daily rate:	\$600.00
Weekends/Holidays:	\$150.00 per hour
Daily rate:	\$900.00

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- 5 • \$500.00 refundable damage/clean-up deposit for any of the above rentals.
- 6 • A minimum of one security officer is required for all events. Permittee is to utilize the
- 7 security services of the village's authorized vendor, who is under contract to provide security
- 8 services. Additional security, beyond minimum security requirements may be required at the
- 9 discretion of the village manager, in consultation with the village's police department.
- 10 If valet service is required, permittee must obtain valet service through company currently
- 11 under contract to provide such service for the Village of Palmetto Bay.
- 12 Permittee is required to utilize tents, tables and chairs through company currently under
- 13 contract to provide such service for the Village of Palmetto Bay.
- 14 • All fees are subject to applicable sales tax.
- 15 • Weekends include Friday, Saturday Sunday and all village recognized holidays.
- 16 • Permittee acknowledges that fees are subject to change.

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18 Administrative Waiver of Rental Fee:

- 19 1. The village manager is authorized to provide an administrative waiver of user rental fees for
- 20 any Village Park Community Room (Coral Reef Park, Palmetto Bay Park, and the Edward
- 21 and Arlene Feller Community Rooms), for nonprofit charitable organizations (registered
- 22 with IRS) and community groups. A request for waiver of the rental fees must issue at least
- 23 ten days prior to the requested day of use. Each community room can only be used for up to
- 24 ten hours a week by community groups or nonprofits.
- 25 2. The village manager shall review the request for administrative waiver of rental fees for use
- 26 of the community rooms and determine if the request by the nonprofit organization or
- 27 community group is accompanied by appropriate documentation to support the request. The
- 28 administrative waiver applies solely to the rental fee, the refundable damage/clean-up
- 29 deposit amount shall be required prior to use of the facilities.
- 30 3. Use of the community rooms is limited to once per week by nonprofit organizations and
- 31 community groups who are seeking use through administrative waiver of rental fees. Use of
- 32 the facilities may be more frequent; however, the nonprofit organization or community

1 group will be required to pay the full rental amount if the room(s) are required more than
2 once per week.

- 3 4. Should the nonprofit organization or community group requesting and/or receiving an
4 administrative waiver of the rental fees conduct a fund raising activity in the community
5 rooms, the organization or group will be required to pay the full rental amount.
6 5. Village use of the community room(s) has priority over any nonprofit organization or
7 community group, and the organization or group will be required to move their meeting to
8 another time or date to accommodate the village's use of the rooms.
9 6. Any community or nonprofit group utilizing an administrative waiver will have to complete
10 the community room facility use agreement.
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12 Thalatta Park Fees

13 All rentals are subject to prior written approval from the director of parks and recreation and/or
14 village manager.
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Weekday Rates:		Weekend Rates:	
Garden Lawn:	\$750.00	Garden Lawn:	\$1,250.00
Outdoor Terrace:	\$1,250.00	Outdoor Terrace:	\$2,250.00
Ceremony Gazebo:	\$175	Ceremony Gazebo:	\$550.00
Covered Terrace:	\$500.00	Covered Terrace:	\$1,000.00
Bride/Groom Suite:	\$250.00	Bride/Groom Suite:	\$550.00
String Lights:	\$350.00	String Lights:	\$550.00
Education Room:	\$150.00	Education Room:	\$350.00
Package Rate:	\$2,500.00	Package Rate:	\$4,000.00

- 17
- 18 • \$1,000.00 refundable damage/clean-up deposit for any of the above rentals required 30 days
19 prior to event date.
 - 20 • Package rate includes the entire facility except for the string lights.
 - 21 • Saturday rentals are restricted to package rate only! Exceptions can be made at the
22 discretion of the Village Manager and/or designee 30 days prior to event date.
 - 23 • Events exceeding 200 guests will require prior written approval from the village and may be
24 subject to additional fees.
 - 25 • Valet parking is required on all events over 50 guests. Permittee must obtain valet service
26 through company currently under contract to provide such service for the Village of
27 Palmetto Bay.
28 Permittee is required to utilize tents, tables and chairs through company currently under
29 contract to provide such service for the Village of Palmetto Bay.
 - 30 • All caterers are required to obtain a catering permit prior to the day of the event at a rate of
31 \$2.00 per guest. A copy of all state catering ,county licensing and certificate of insurance
32 naming the Village of Palmetto Bay/Thalatta Estate as additional insured must be provided
33 to the village 30 days prior to event date..
 - 34 • A minimum of two security officers are required for all events over 50 guests. Permittee is to
35 utilize the security services of the village's authorized vendor, who is under contract to
36 provide security services. Additional security, beyond minimum security requirements may

1 be required at the discretion of the village manager, in consultation with the village's police
2 department.

- 3 • Weekends include Friday, Saturday, Sunday and all Village recognized holidays.
- 4 • All fees are subject to applicable sales tax.
- 5 • Permittee acknowledges that fees are subject to change.

6
7 Use fees provided herein may be reduced or waived by the village manager for non-profit
8 organization and community groups. Such action by the village manager shall be publicly announced
9 by the manager at a council meeting. The non-profit or community group shall be required to
10 indemnify the village and provide adequate insurance.

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12 Secs. 20-3 – 20-50. - Reserved

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15
16 **Section 2. Conflicting Provisions.** The provisions of the Code of Ordinances of the
17 Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the
18 provisions of this ordinance are hereby repealed.

19
20 **Section 3. Severability.** The provisions of this Ordinance are declared to be severable,
21 and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be
22 invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences,
23 sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative
24 intent that this Ordinance shall stand notwithstanding the invalidity of any part.

25
26 **Section 4. Codification.** It is the intention of the Village Council and it is hereby
27 ordained the provisions of this Ordinance shall become and be made part of the Code of
28 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be
29 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be
30 changed to "Section" or other appropriate word.

31
32 **Section 5. Effective Date.** This ordinance shall take effect immediately upon
33 enactment.

34
35 **PASSED and ENACTED** this ____ day of January, 2016.

36
37 First Reading: _____
38 Second Reading: _____

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42 Attest: _____
43 Meighan Alexander
44 Village Clerk

Eugene Flinn
Mayor

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

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6 _____
7 Dexter W. Lehtinen
8 Village Attorney

9 FINAL VOTE AT ADOPTION:

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Council Member Karyn Cunningham _____
Council Member Tim Schaffer _____
Council Member Larissa Siegel Lara _____
Vice-Mayor John DuBois _____
Mayor Eugene Flinn _____