

AUGUST 8, 2012 WORKSHOP SUGGESTION:

(a) All lighting shall require a detailed site lighting plan with location, height, type of lights, shades, deflectors, beam directions, and photometric data.

Comment [DD93]: Already provided under 30-60.6(1) and 30-70.5(g)

(b) Exterior lighting intensities shall be controlled to assure that light spillage and glare are not directed onto adjacent properties or streets and all direct illumination is kept with property boundaries. Exterior lighting shall be controlled so as not to adversely affect adjacent properties and motorists. (Derived from Cutler Bay Code)

Comment [DD94]: Already provided at 30-60.6(2) and 30-70.5(g).

Maximum illumination at the property line shall not exceed 0.3 foot candles and 0.01 foot candles 10 feet beyond the property line. The intensity of illumination for exterior lighting across the site shall not exceed an average of six (6) foot candles measured at grade. Light trespass beyond property boundaries or above the horizontal plane beyond the levels noted here shall be considered non-compliant. Fixtures shall be placed to provide uniform distribution of light and to avoid excessive glare. (Derived from Cutler Bay Code)

Comment [DD95]: See comments [88] and [92]. A provision provided under 30-60.6(3). Does the Council desire to make the code more restrictive for all developments?

(c) No building or structure shall have any up lighting, directional soffit lights or wall pae lights. One way down lights on walls, columns, covered terraces or walkways shall be permitted.

Comment [DD96]: Added at section 30-60.6(5).

(d) Lighting shall not be installed (or used) for outdoor recreational areas. (Underwater lighting used for the illumination of a swimming pool, fountain and other water features may be permitted.)

Comment [DD97]: This provision directly conflicts with existing code 30-60.6. Please provide direction taking into consideration possible BJ Harris Act claims. Perhaps regulation can be via hours versus precluding the lights.

(e) Parking area, circulation, and security light fixtures shall be installed which project the light rays directly to the ground surface and shall include shields which restrict projection of light rays outward to adjacent properties and also restrict the upward projection of light rays into the night sky.

Comment [DD98]: This portion added to 30-60.6(6).

Comment [DD99]: Provided under existing code. Section 30-70.5(g)

(f) The parking area, circulation and security lights shall have a maximum overall height of fifteen (15) feet.

Comment [DD100]: Added to subsection 30-60.6(7).

(g) Compliance with minimum green standards — Section 28-6 — relating to energy saving fixtures and LED lighting shall be required.

Comment [DD101]: As added to 30-60.6(b).

(h) The parking area and internal circulation lights shall be placed on a timer consistent with the termination of operational hours and consistent with applicable codes.

Comment [DD102]: Added to subsection 30-60.6(8).

9. NOISE

EXISTING CODE AND REVISIONS THERETO:

30-60.10 Demolition Requirement Standards.

(g) All demolition sites shall comply with the Village's noise code, demolition activity is limited between the hours from 7:00 a.m. [to] 6:00 p.m., Monday thru Friday. Saturday hours shall be from 9:00 a.m. to 5:00 p.m. No demolition activity is permitted on Sunday.

30-60.29 Noise.

(d) Maximum permissible sound.

(1) Continuous sound.

- a. No person shall cause, suffer, allow, or permit the operation of any source of sound in such a manner as to create a sound level that exceeds the sound level limits listed in Table 1 when measured at, across or within the real property line of the receiving property land use designation. Sound pressure levels in excess of those established in Table 1 would constitute a noise disturbance and be in violation of this Code.

(e) Specific prohibitions against different types of noises.

In addition to the general prohibitions set out above and the maximum permissible sound levels set out in Table 1, and unless otherwise exempted by this article or by act of the Village, the following specific acts, or the causing or permitting thereof, are hereby declared to be in violation of this section:

* * *

(2) Loudspeakers. ~~Generally, Using~~ or operating for any purpose any loudspeaker, loudspeaker system or similar device between the hours of 11:00 p.m. and 7:00 a.m. on weekdays and 11:00 p.m. and 9:00 a.m. on weekends and Village recognized holidays in areas within or adjacent to residential, commercial or institutional areas, except for any noncommercial public speaking, public assembly or other activity for which a special permit has been issued by the Village. Any temporary public address speaker system or similar amplified sound device in the athletic fields, courts, or pool shall not be operated between the hours of 5:00 p.m. and 10:00 a.m. (Monday – Friday). On Saturday, the temporary public address speaker system or similar amplified device shall not be operated between the hours of 2:00 p.m. and 10:00 a.m.

(7) Refuse operators. The collection of garbage, trash or recyclables by any refuse operator between the hours of 7:00 p.m. and 7:00 a.m.

(9) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, fire, whistle or similar stationary emergency signaling device, except for emergency, shall not occur before 7:00 a.m. or after 7:00 p.m., and any testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed 60 seconds. Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur for more than once in each calendar month unless additional testing is permitted by special permit. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 11:00 p.m. and shall be exempt from the time limit specified herein. The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within 15 minutes of activation, shall be prohibited.

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Comment [DD103]: Under current code a special event permit could be issued for hours outside the proposed provision. As written, this appears to apply to all parks, etc., as parks are nonresidential uses in residential zoning districts. To do otherwise would result in a possible disparate treatment/application claim.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

(a) ~~The sound level of any operation, other than the operation of motor vehicles, operations involved in the construction or demolition of structures, or emergency alarm signals from an authorized use shall not exceed the decibel levels in the Village Noise Ordinance — Sec. 30-60.29.~~

(b) ~~Sound pressure levels shall be measured at the property line upon which the emission occurs.~~

(c) ~~Any temporary public address speaker system or similar amplified sound device in the athletic fields, courts, or pool shall not be operated between the hours of 5:00 p.m. and 10:00 a.m. (Monday — Friday). On Saturday, the temporary public address speaker system or similar amplified device shall not be operated between the hours of 2:00 p.m. and 10:00 a.m. The temporary public address speaker system shall be used in compliance with the Village's Noise Ordinance 30-60.29, as amended, and shall not generate a direct sound pressure level in excess of that permitted by Sec. 30-60.29 at the property boundary. (Taken from Palmer Trinity Special Exception Resolution)~~

(d) ~~Acoustical engineer proposed to be hired by applicant, selected by the Village.~~

Comment [DD104]: See subsection 30-60.10, above as to demolition standards.

Comment [DD105]: Demolition is exempt from decibel levels. As a practical matter, this request may not work for demolition and alarms. Demolition is regulated by the process of pulling a demolition permit. It would be regulated under standard provisions for construction. Outside of hours of operation this provision would not practically work. To implement such a regulation would effectively prohibit all construction. With regards to alarms, the intent is for the alarm to be heard across property lines so as to alert the community to the reason for the alarm. See section 30-60.29(e)(9), above.

Comment [DD106]: Current code is more restrictive. See section 30-60.29(d)(1)a.

Comment [DD107]: See revision to section 30-60.29(e)(2).

Comment [DD108]: There did not appear to be consensus on this item. Further, compliance with the noise code is measurable through the Village's use of the sound meter. A violation would be determinable without a sound engineer.

10. OPERATIONS

EXISTING CODE AND REVISIONS THERETO:

Sec. 30-110.8. Operational Standards

2. Service Areas and Hours of Operation

- a. Service, delivery and storage areas and equipment shall be adequately screened and located away from view of adjacent single family residential properties.
- b. Operational hours of the non-residential use shall be such that the impact upon the immediate residential neighborhood is minimized.

Comment [DD109]: This is not a clear criteria and thus a subjective application of law.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

~~(a) Service and delivery vehicles, including solid waste pick-up, shall be restricted to Monday through Friday between the hours of 7:00 a.m. to 7:00 p.m. [consistent with 30-60.29 (e)(7) of the Code]. Saturday deliveries shall be allowed from 10:00 a.m. to 1:00 p.m.~~

Comment [DD110]: Refuse collection provision already provided for under 30-60(e)(7) and (15).

~~(b) Service, delivery and storage areas and equipment shall be adequately screened and located away from view of adjacent single family residential properties.~~

Comment [DD111]: As added at sub (a) above.

~~(c) Operational hours of the non-residential use shall be such that the impact upon the immediate residential neighborhood is minimized. [Don't know what this means or how to enforce].~~

Comment [DD112]: As added at sub (b) above.

~~(d) Where services areas are provided they shall be screened and so located as not to interfere with the livability of the adjacent residential properties. [Don't know what this means or how to enforce].~~

Comment [DD113]: As added at sub (a) above since the provision simply reiterates the same standard.

11. TRASH PICKUP LOCATION:

EXISTING CODE AND REVISIONS THERETO:

30-60.7 Outdoor storage.

(f) Garbage dumpsters. Front or rear-loaded dumpsters shall be enclosed or screened by a fence or wall and out of public view.

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Sec. 30-110.7. - Additional site plan review standards.

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(6) *Service areas.* Wherever service areas are provided they shall be screened and so located closer than 10 feet from buffer so as not to interfere with the livability of the adjacent residential properties.

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Comment [DD114]: Same concern with the concept of a setback buffer and an additional setback for a service area, is it needed?

AUGUST 8, 2012 WORKSHOP SUGGESTION:

~~(a) Trash pickup location shall not be closer than 10 feet from buffer abutting residential zone.~~

Comment [DD115]: See sub 30-110.7(6)

~~(b) Any trash enclosure that has any food waste shall be enclosed and screened with landscaping.~~

Comment [DD116]: Redundant, language already exists

Comment [DD117]: See section 30-60.7(f).

12. LOADING ZONE LOCATIONS:

AUGUST 8, 2012 WORKSHOP SUGGESTION:

(a) Loading zones shall not be located closer than 10 feet from the buffer abutting a residential zone.

(b) Loading zones may be located within building structures provided the buildings meet setback requirements.

Comment [DD118]: This element is addressed at Section 7 of this document

Comment [DD119]: See sub 30-110.7(6).

Comment [DD120]: 30-110.8(b) covers loading areas and all buildings need to comply with setbacks. This sentence is rendered inapplicable.

13. ENFORCEMENT

EXISTING CODE AND REVISIONS THERETO:

30-30.2 General Application Requirements.

(q) **Civil fines/citations.** In addition to any other judicial or administrative remedies or penalties provided by law, rule, or regulation, any person who violates any of the provisions of the certificate requirements, any cease and desist order of the Village, any notice to correct a violation, or any assurance of compliance, with respect to the matters regulated herein, or any other lawful order of the Village, or any condition, limitation, or restriction of a certificate issued by the Village, shall be subject to the imposition and recovery of a civil fine/infraction in an amount of not more than ~~\$250.00~~ \$500.00 per offense in conjunction with the Village's fee schedule. Each day during any portion of which the violation occurs or continues to occur constitutes a separate offense. The funds recovered by the Village shall be deposited in the Village's Code Compliance fund to be used for code compliance purposes.

Comment [DD121]: Original amount taken from County Code, however, pursuant to Chapter 162, Florida Statutes, a City of our size could only provide a \$250.00 fine for a "first violation."

2-205 Code Compliance Procedures

(o) Prohibition of the issuance of permits, licenses, certificates of use and occupancy, or zoning approvals to violators with unpaid civil citations or liens. Notwithstanding any provision of this Code, no municipal officer, agent, employee, special master or board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, municipal occupational licenses, platting action, or zoning action to any named violator with: (i) unpaid civil penalties; (ii) unpaid administrative costs of hearing; (iii) unpaid municipal or agency investigative, enforcement, testing, or monitoring costs; or unpaid liens, any or all of which are owed to the village pursuant to the provisions of the village's code of ordinances, Miami-Dade County Code, Florida Building Code, as applicable, and (iv) failure to cure existing violations, unless the building department makes a determination that the work is immediately necessary due to an emergency or life-safety concern.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

~~(a) A violation of any of the development approvals or conditions of the Village Council shall result in a \$250.00 a day fine per violation. (Derived from Palmer Trinity special exception Resolution).~~

Comment [DD122]: Currently provided for under 30-30.2(q), above.

~~(b) In the event the terms of an approved site plan are not complied with, in addition to any other remedies available, the Village is authorized to withhold any further permits, and refuse to make any inspections or grant any approvals, until such time as the conditions are complied with. (Derived from Palmer Trinity special Exception Resolution)~~

Comment [DD123]: Currently provided for at section 2-205(o).

14. MISCELLANEOUS

EXISTING CODE AND REVISIONS THERETO:

30.10.4 Nonconforming Uses.

Comment [DD124]: Please see staff Memorandum

(a) Continuance of nonconforming uses. Nothing contained in this Land Development Code shall be construed to prohibit a continuation of the particular lawful use or uses of any land, building, structure, improvement, or premises legally existing in the respective districts as of the adoption of this Code. Any modification of an existing lawful use shall conform to the regulations this Code.

(b) Change in location of nonconforming building or structure. Should any nonconforming building or structure be moved, it shall be required to conform to the existing regulations for the district.

(c) Rules for interpretation. Nothing in this Land Development Code shall be interpreted as authorization for, or approval of, the continuation of any illegal or unauthorized nonconforming use of a building and/or structure. The casual, intermittent, temporary, or illegal use of land, building or structure shall not be sufficient to establish the existence of a nonconformity.

(d) Expanding or extending permitted nonconformity is prohibited, except under the following circumstances:

(1) Restoration. Any nonconforming structure that has been damaged or made unsafe or unusable to an extent less than 50 percent of either the assessed value of the structure excluding the land recorded by the property appraiser's office, or the comparable property appraisal for the total market value of the structure, may be restored or reconstructed to its intended use, provided; however, the floor area of such use, building or structure shall not exceed the floor area requirements that currently exist under the Code. All repairs shall be substantially completed within one year of the sustained damages or such use shall not be restored. A nonconforming feature may not be increased or intensified. The one year period may be extended by the Building Official, consistent with emergency repairs and extensions provided under the Florida Building Code.

(2) Repairs. Normal maintenance and repair and incidental alteration of a nonconforming structure or a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered to improve interior livability; provided, however, that no structural alterations are made that would increase the number of dwelling units or otherwise increase a nonconforming feature of the structure.

(3) Site alterations. Site alterations, including but not limited to the management of off-street parking or the enlargement of nonbuilding recreational facilities of a nonconforming use, are permitted provided that the proposed alterations do not increase the degree of nonconformity.

(4) Single-family dwellings. Restoration, repairs, and site alterations can be made to existing single-family dwellings in districts that allow such single-family dwellings, provided that such restorations, repairs or site alterations do not increase the number of dwelling units, increase density, increase the degree of the nonconformity, or result in a different type of nonconformity from that which is already considered to be grandfathered.

(5) Nonconforming density. Existing residential dwellings that are nonconforming as to density shall not require a variance to permit the otherwise allowable addition or alteration to the building or site, provided that the density is not increased.

(e) Effect of actual construction and application for certificate of use or building permit. To avoid undue hardship, nothing in this division shall be deemed to require a change in plans, construction or designated use of any building on which actual construction was lawfully begun prior to adoption of this Code and/or upon which actual building construction has commenced and continued in compliance with the building code and applicable provisions of this Land Development Code. "Actual construction" is defined to include the placing of materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be "actual construction," provided that all such acts have commenced and continued in compliance with the building code. In addition, nothing in this division shall be deemed to require a change in plans, construction, or designated use of any building on which a building permit or certificate of use and occupancy has been applied for prior to the date of the adoption of this Code. This division shall apply to any amendment to the Land Development Code in the same manner as the Code's original adoption. Where building permits or certificates of use and occupancy are sought in compliance with this division, the applicant shall have a period not to exceed six months after the effective date of these land development regulations, or applicable amendment thereto, within which to obtain a final building permit or certificate of use and occupancy.

(f) Change in nonconforming uses without structural alteration. If no structural alterations are made, a nonconforming use of a building or structure may be changed to another nonconforming use of a similar or higher (more restrictive) classification under the following conditions:

(1) The change in use shall not intensify or enlarge the basic use of the building or premises by increasing the need for parking facilities; increasing vehicular or pedestrian traffic; allowing or increasing noise, vibration, fire hazard, smoke, dust or fumes; increasing hours of operation or number of employees; increasing ground coverage or adversely impacting drainage; otherwise resulting in a more intensive use of the building or premises; or changing the basic character of the building or premises unless such action would bring the use further into compliance with the current provisions of this Land Development Code.

(2) When a nonconforming use of all or any part of a building, structure, or premises has been changed to a conforming use, that portion of the nonconformity shall be abandoned.

(3) Abandonment of nonconformity. If a nonconformity is removed, abandoned, or ceases (except when government action impedes access to the premises), then any and every future use of the structure or premises shall be in conformity with the use provisions of the Land Development Code. All material and equipment associated with the abandoned nonconformity shall be completely removed from the premises by its owner. Additional structures that do not conform to the requirements of this Land Development Code shall not be erected in connection with such nonconformity. A nonconforming use shall be considered abandoned or having ceased when the land use has been discontinued for a period of 12 months as indicated by one or more of the following:

- a. Allowing licenses or certificate of use to lapse;
- b. Removing meters;
- c. Not maintaining structure in a habitable condition;
- d. Not making unit available for occupation (i.e., advertising or marketing through a realtor or other agent);
- e. Failure to perform actions pursuant to the terms of an active building permit; or
- f. Failure to occupy the site.

AUGUST 8, 2012 WORKSHOP SUGGESTION:

- (a) ~~The additional conditional use standards in this section shall apply when there is a need for a conditional use approval of a non-residential use on a parcel zoned for single-family residential. Conditional uses are approved after a public hearing by the Village Council. (Derived from Cutler Bay)~~
- (b) ~~No administrative variances or other waiving of any requirement of this ordinance shall be granted except as approved after a public hearing by the Village Council. [Not sure this is currently permitted under zoning code. May be a non-issue]~~
- (c) Adjacent property shall mean property that touches or is across a street, canal, private street, access easement, or right-of-way from the subject property.
- (d) ~~All applicable State, County, and Village Codes and Ordinances shall be complied with at all times. Where a conflict exists in the Code, the more restrictive shall prevail. [General standard in law.]~~
- (e) ~~Setbacks~~
- (f) ~~Building Size~~
- (g) ~~Building Heights — Max 2 Stories, 35 Feet, No Height Variances.~~
- (h) ~~Screening Of Rooftop Equipment (F)~~
- (i) Grandfather Existing Uses

Comment [DD125]: It is the staff recommendation to strike Division 30-60.15 and incorporate its language into 30-110. This would provide for public assembly uses, where not in conflict with Dade County Home Rule Authority, to go to public hearing. Current Code does not provide for an equitable distribution of similar uses subject conditional use requirements. It is instead recommended, in concert with relocating Division 30-60-15, to realign those uses presently identified as a conditional use and the public assembly use under the proposed changes to 30-110. The protection afforded is on par with the unusual use section and often more specific. It minimizes potential claims of disparate treatment amongst these types of uses.

Comment [DD126]: As proposed all public assembly uses (other than traditional public schools) shall be subject to the public hearing process. The public hearing process and the order relating to same eliminates the possibility of applying for an administrative (diminutive) variance request. See Section 30-30.3(d). Additionally, section 30-30.3 (c), solely allows a substantial compliance review that would decrease impacts (which decreases are minimal) and would not interfere with the conditions contained in the resolution.

Comment [DD127]: This can be added to Section 30-40 Definitions

Comment [DD128]: This is a redundant statement, it would apply regardless as a matter of general standard law.

Comment [DD129]: Already addressed either above or in other portions of the Land Development Code.

Comment [DD130]: See cover memorandum.