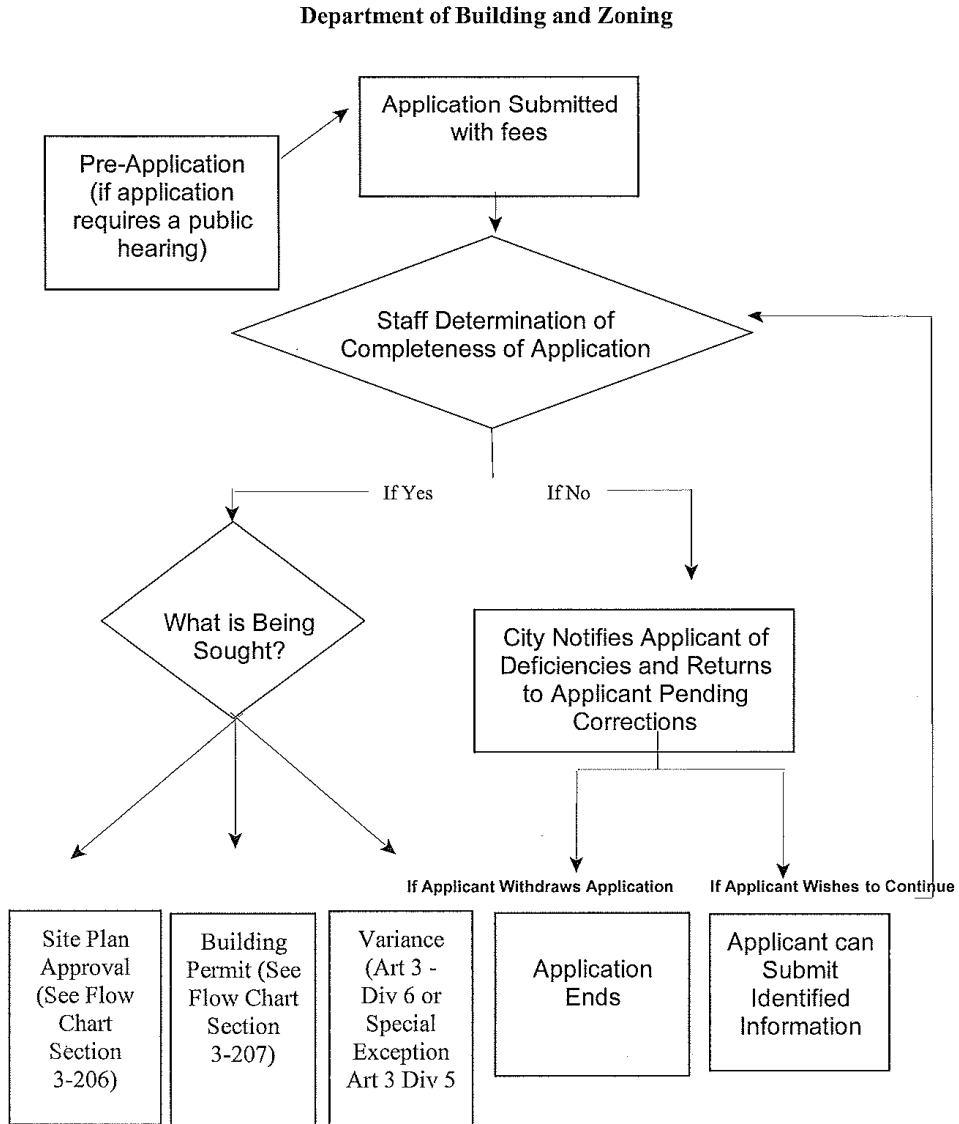


ARTICLE 3. DEVELOPMENT REVIEW

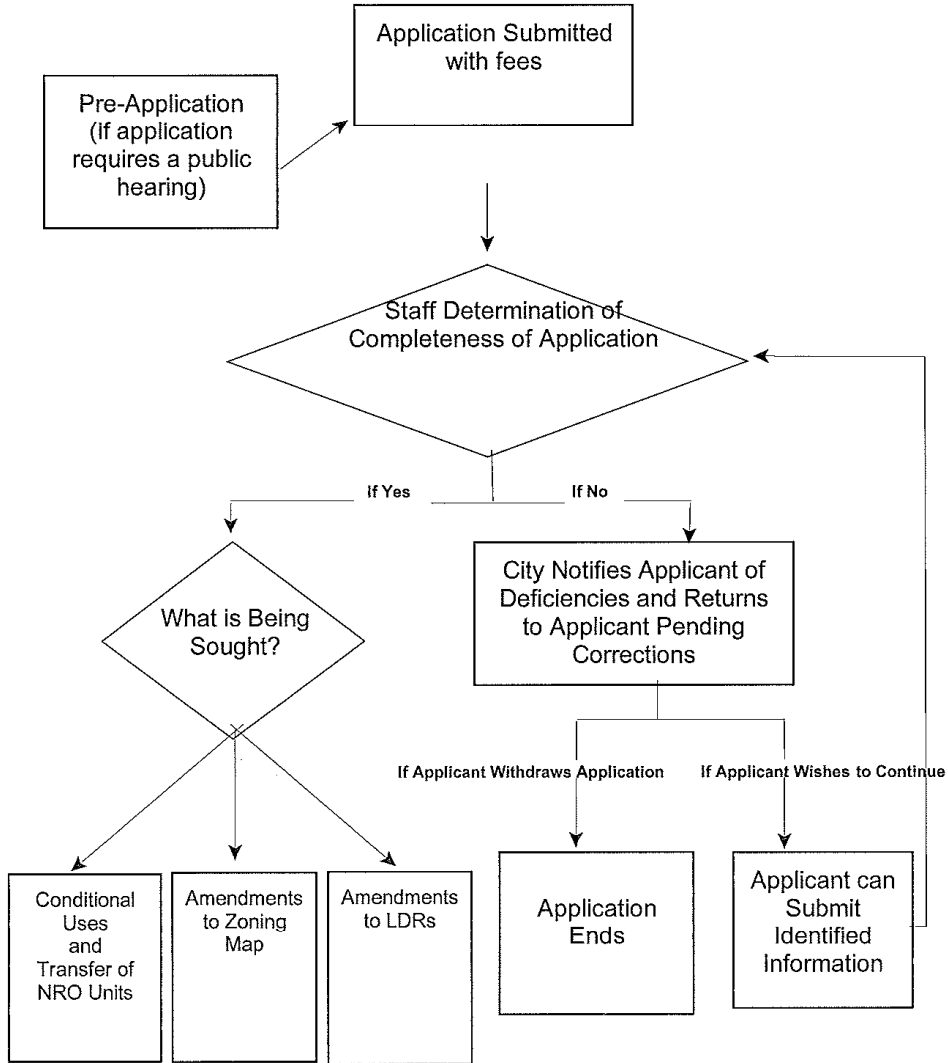
Division 1. Purpose and Applicability.

The purpose of this Article is to establish and describe the types of procedures involved in obtaining development approval. This Article establishes the requirements for each type of development approval, beginning with general procedures, which are applicable to all levels of approval and followed by specific procedures that are applicable to each process. This Article is applicable to all applications for development approval that are initiated subsequent to the date of adoption of these LDRs.

Division 2. General Development Review Procedures



Department of Planning and Community Development



Section 3-201. Pre-application Conference.

- A. All applicants with applications for development review which require a public hearing for approval shall schedule a pre-application conference with City staff to discuss the nature of the application, application format requirements, and the timing of review and approval. Any other applicant for development approval may request a pre-application conference with the appropriate City staff.
- B. At the pre-application conference City staff shall determine whether the proposed application contains developable property, provide the applicant with all required application forms and a checklist that sets forth all of the information that will be required of the applicant in order to review the application for compliance with these LDRs.

Section 3-202. Application

- A. Form of application. All applications for development approval shall be submitted on forms approved and provided by City staff.
- B. Payment of application fee. The application fee and cost recovery amounts required by resolution shall accompany all applications. The fee schedule shall be available from City staff.
- C. Proof of ownership or agency/authorization. All applications shall include sworn proof of ownership of the subject property or sworn proof that the applicant is authorized by the owner to act on the owner's behalf on a form provided by City staff.
- D. Plans and specifications. Such plans and specifications as are required by City staff shall be prepared by a registered architect or registered engineer, qualified under the laws of the State of Florida to prepare such plans and specifications.
- E. Simultaneous applications. If more than one approval is requested for a particular development proposal, with the exception of an application for a building permit, certificate of completion/occupancy, an applicant is required to submit all applications for development review at the same time.
- F. Withdrawal of applications. If an application for development approval has been filed but no approval has been received within nine (9) months of receipt of a complete application, the application will be deemed withdrawn and if another application is submitted for the same project, new fees will be required.
- G. Priority shall be given to the review of all applications for development approval which involve green building principles and affordable housing.

Section 3-203. Determination of Completeness.

- A. Upon receipt of an application for development review, City staff shall review the application to determine whether:
 - 1. All required information is provided in an acceptable format;
 - 2. The required fee(s) is paid; and
 - 3. Whether the information is technically competent.
- B. If any required information is not provided, the applicable fee not paid and/or if the application or any part of the application is determined not technically competent, then:
 - 1. City staff shall notify the applicant in writing of the specific deficiency in the application and shall not process the application further; and
 - 2. The applicant shall either:
 - a. Submit the specifically identified information in a technically competent form; or
 - b. Withdraw the application.

Section 3-204. Review by Development Review Committee.

After an application for development approval is determined to be complete and technically competent, if a site plan is required under the provisions of Section 3-206A, the Development Review Committee (DRC) shall review the application in accordance with the procedures adopted by the DRC and any procedures applicable to the application for development approval. The Building and Zoning Director will coordinate the DRC review, assist in the resolution of conflicts and inform the applicant of any changes that need to be made to the applications to allow further review of the application to proceed.

Section 3-205. Permitted Uses.

Any use listed as a permitted use in a zoning district may be permitted subject to obtaining a building permit and site plan, if required.

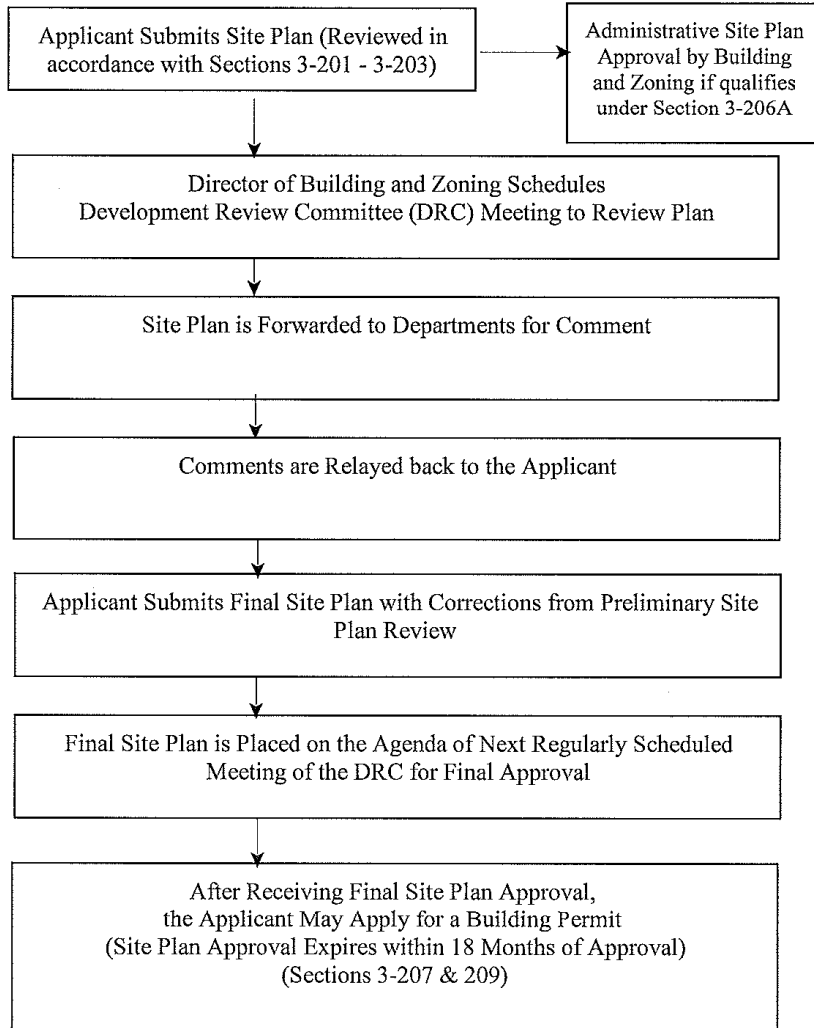
Section 3-206. Site Plan Review.

- A. Administrative site plan review by the Building and Zoning Department shall be required for minor development/redevelopment as depicted on the use chart in Article 4, Section 4-302.

- B. Site plan review shall be required by the DRC of any proposed development that:
1. Increases the gross impervious area of any property by more than five thousand (5,000) square feet;
 2. Involves development of ten percent (10%) or more of the site area; or
 3. Reconstructs a structure following substantial destruction by fire or other calamity.
- C. Building and Zoning Department may determine that a site plan is required for development not covered by Section 3-206A or B and the Director shall consult such other city departments as may be determined to be necessary in the review of the application.
- D. Upon receipt of a preliminary site plan application under the provisions of Section 3-206B, the Director of Building and Zoning shall schedule a DRC meeting to present the proposed plan.
1. Public Works shall review the site plan for:
 - a. water and sewer
 - b. storm water
 - c. sanitation
 - d. public right-of-way, including sidewalks
 - e. public facilities concurrency
 - f. traffic circulation and impacts
 2. Parks and Recreation shall review the site plan for:
 - a. consistency with the Park Master Plan
 - b. landscape design and energy conservation
 - c. park concurrency
 - d. Florida Friendly Plant List
 3. Police shall review the site plan for:
 - a. environmental safety design techniques for crime prevention (CPED).
 - b. defensible space design approaches
 4. Community Planning and Development shall review the site plan for:
 - a. consistency with Comprehensive Plan's goals, policies and objectives
 - b. concurrency requirements
 - c. transportation mitigation strategies
 - d. consistency with Land Development Regulations
 - e. sustainable building program

5. Building and Zoning shall review the site plan for:
 - a. consistency with these LDRs
6. Community Redevelopment Agency shall review the site plan for:
 - a. consistency with the CRA Plan
- E. At the DRC meeting where a new site plan is being presented, members of the committee will receive copies of the proposed site plan. Within twelve (12) business days of the DRC meeting, members of the committee shall provide the Building and Zoning Department with comments.
- F. Upon receipt of all preliminary review comments, the Building and Zoning Department shall compile each of the comments into a comprehensive Development Review Report and submit such report to the applicant.
- G. Once corrections are made as requested by the DRC, the applicant shall submit copies of a final site plan. The Building and Zoning Department shall place the final site plan on the agenda of the next regularly scheduled meeting of the DRC for final approval by each member of the DRC.
- H. After receiving final site plan approval, the applicant may apply for a building permit. If another approval is required, such as a conditional use or a variance, simultaneous applications may be considered in accordance with applicable procedures in this Article.
- I. If a building permit is not applied for pursuant to an approved site plan within eighteen (18) months of approval, then the site plan approval shall expire.

Site Plan Review



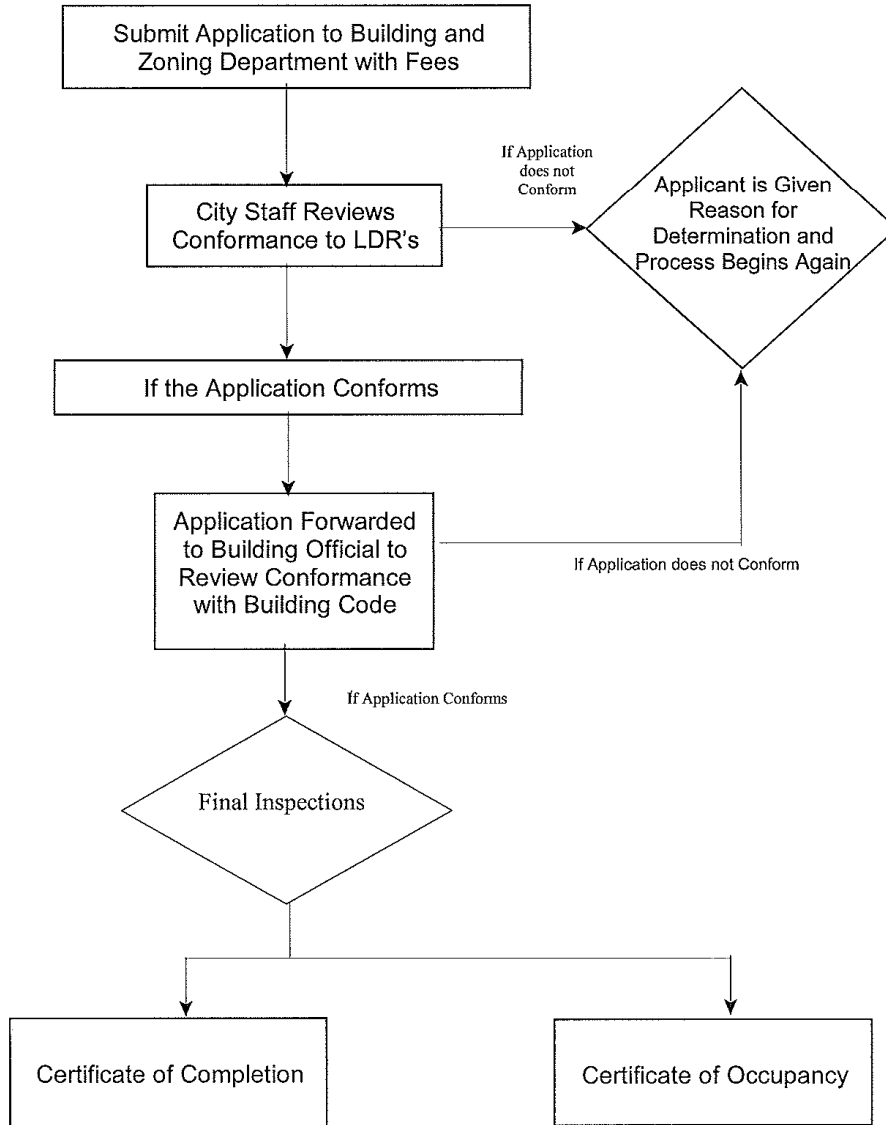
Section 3-207. Building Permit.

A. Permit Required.

1. No person shall construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or any outside area being used as part of the building's designated occupancy or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Florida Building Code, or to cause any such work to be done, without first making application to the Building and Zoning Department and obtain the required permit for the work.
2. All building permits and sign permits shall be in conformity with these LDRs and any applicable development approval related to the parcel proposed for development.
3. Application for permits will be accepted only from persons currently licensed in their respective fields and for whom no revocation or suspension of license is pending; provided however, a private homeowner may make application and if approved obtain a permit and supervise work in connection with the construction, maintenance, alteration or repair of a single-family residence or duplex for his own use and occupancy and not intended for sale and may make application for, and if approved, obtain a permit for maintenance and minor repairs on any type of building. The construction of more than one residence or duplex by an individual owner in any twenty four (24) month period shall be construed as contracting, and such owner shall then be required to be licensed as a contractor. Such licensed contractor or owner shall be held responsible to the Building Official for the proper supervision and conduct of all work covered thereby.

B. Procedure. All applications and plans for building permits shall be submitted to the Building and Zoning Department. Upon receipt of an application and plans, City staff shall determine whether the application and plans conforms to these LDRs and any applicable development approval. If the Building and Zoning Department determines that the application and plans does not conform, the applicant shall be informed of the decision. If the Building and Zoning Department determines that the application and plans does conform, the application and plans shall be referred to the Building Official who shall determine whether the application and plans conforms to all applicable requirements contained in the Florida Building Code. If the Building Official determines that the application and plans does conform, the building permit shall be issued. If the Building Official determines that the application and plans does not conform, he shall identify the application and plans' deficiencies and deny the application and plans.

Building Permit



Section 3-208. Certificate of Occupancy.

A Certificate of Occupancy (CO) is required for all new construction. A Certificate of Occupancy (CO) can be issued by the Building Official after all applicable final inspections are approved, all required documents are filed with the Building Official and all applicable fees are paid.

Section 3-209. Certificate of Completion.

A Certificate of Completion (CC) is required for all substantial remodeling, renovations and rehabilitations without any change in use. A Certificate of Completion (CC) can be issued after all applicable final inspections are approved, all required documents are filed with the Building and Zoning Department and all applicable fees are paid.

Section 3-210. Certificate of Re-occupancy.

A Certificate of Re-occupancy is required each time there is any transfer of ownership of a residential building, whether single-family, duplex, triplex condominium or apartment. Both the seller and the buyer are responsible for obtaining a Certificate of Re-occupancy. A Certificate of Re-occupancy is required to ensure that structures originally built for residential use are still utilized for that purpose and are in compliance with the requirements of these Land Development Regulations and the City's building and life safety codes. The City Manager shall have the authority to enter into settlement agreements and issue conditional certificates of re-occupancy, which shall be executed by the buyer and seller. A conditional certificate of re-occupancy shall not be issued where life-safety violations exist on the property.

Section 3-211. Resubmission of Application Affecting Same Property.

No application shall be accepted during the following time periods after the denial of a substantially similar application affecting the same property or any portion thereof:

- A. Conditional uses, special exceptions, variances and appeals: 12 months
- B. Rezoning, LDR text amendments, Comprehensive Land Use Plan Amendments and Application for Abandonment and Vacation of Non-Fee Interests: 12 months, unless the denial was without prejudice, then re-application may be made at any time.

Section 3-212. Certificate of Use.

- A. Certificate of Use Required.
 - 1. A Certificate of Use (CU) shall be required for the nonresidential use of any structure and/or property located within the City. No person shall use or permit the use of any structure and/or property hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, until a CU reflecting the use, extent, location, and other matters related to this Section shall have been issued to the owner or

tenant. Where a building permit is involved, the provision of a Certificate of Use shall be part of the building permit application review and approval process. Otherwise, an application shall be made to the zoning administrator on forms provided by the City.

2. Any use for which a CU has been approved and issued must commence within 180 days of CU approval, or said approval shall be deemed null and void.

B. Application.

1. Applications for CU are to be completed only by the property owner, its formally designated agent, or a lessee with formal and legally sufficient consent of the property owner. Such applications shall be made on forms provided by the Director and shall be accompanied by such plans, reports, or other information, exhibits, or documents as may be reasonably required to make the necessary findings for the applicant.
2. The property owner may also be subject to the following disclosure requirements:
 - a. A statement describing in detail the character and intended use of structure and/or property;
 - b. Boundaries of the property, any existing streets, buildings, watercourses, easements, and Section lines;
 - c. Exact location the structure and/or property;
 - d. Access to utilities and points of hookups;
 - e. Storm drainage and sanitary sewerage plans;
 - f. Such additional data, maps, plans, or statements as may be required for the particular use involved.
3. Completed applications with the appropriate fee shall be filed with the Department of Building and Zoning. No application shall be deemed to have been filed unless and until the application is completed with all plans, reports, or other information, exhibits, or documents required hereto shall have been provided, and all fees due at time of filing shall have been paid.
4. During the processing of an application, if it is determined by the Director additional information is required to make necessary findings of use, failure to supply such supplementary information may be used as grounds for denial of CU.

C. Conformity with Laws.

1. The Certificate of Use shall show that the use of a structure and/or property is in conformity with applicable City and Miami-Dade County (County) codes, as amended from time to time. It shall be the duty of the Director of Building and Zoning or his/her designee (Director) to issue a CU if the Director finds that all applicable City and County requirements have been complied with as of the date of issuance, or to withhold a CU until such time the Director finds that all applicable City and County requirements are satisfied.
2. In the event there is a question as to the legality of a use, the Director may require inspections, affidavits and such other information deemed appropriate or necessary to establish the legality of the use. Additionally, the City shall have the right to periodically inspect premises at any reasonable time to ensure the existence of a current and valid CU and to ensure compliance with applicable City and County laws, under which the CU was issued.

D. Certificate Issued in Error.

1. A Certificate of Use issued in error shall not confer any rights to the person or entity in possession of the Certificate, and upon a finding that a Certificate has been so issued, it shall be considered null and void.
2. No Certificate of Use shall be deemed or construed to authorize a violation of any provision of these LDRs, and such Certificates of Use shall be deemed or construed to be valid only to the extent that the use, location, or other matters related to these LDRs are lawful.
3. Issuance of a CU, in reliance upon the information presented during the application process, shall not prevent the Director from taking any of the following actions:
 - a. Require necessary corrections on the application documents;
 - b. Require the abatement of any violation of use of structure and/or property;
and
 - c. Revoke, or otherwise withhold the Certificate of Use.

E. Certificate of Use Fee.

1. The Department of Building and Zoning shall charge a Certificate of Use APPLICATION fee in the amount of one hundred dollars (\$100.00). The fee is to be paid by all applicants prior to the issuance of the Certificate of Use.

2. The Certificate of Use fee may be adjusted annually by an amount equal to the rate of increase in the Consumer Price Index (CPI) or from time to time by resolution of city council.

F. Administration and Enforcement.

1. The Director shall be responsible for the administration and enforcement of this Section, prevent violations or detect and secure their correction, and investigate promptly complaints of violations, with such assistance as the City Manager may direct.
2. It shall be the duty of all employees of the city, and especially of all officers and inspectors of the Department of Building and Zoning, the Code Enforcement Department, and the Police Department, to report to the Director any apparent violation.

G. Violations and Remedies.

1. If the Director finds that any of the provisions of this Section are being violated, notification of such violation shall be made in writing to those responsible to ensure compliance with the provisions of this Section.
2. If the violation continues, the Director may initiate enforcement procedures pursuant to Chapter 2, Article II, City of North Miami Code. The Director, in addition to other remedies, may also institute any appropriate civil action or proceedings in the circuit court for Miami-Dade County.

H. Penalties. Penalties levied for a violation of this Section shall be assessed in the amount pursuant to Section 2-110 "Schedule of Civil Penalties and Fines," City of North Miami Code.

I. Records. The Director shall maintain records of all official administrative actions and of all violations discovered by whatever means, including all complaints and responses made in regard thereto, with remedial action taken and disposition of cases.

J. Exemption from fees. Miami-Dade County, the State of Florida, and the United States of America shall be exempted from the payment of any fee for a Certificate of Use where the work is done wholly by personnel of any such agency.

Division 3. Uniform Notice and Procedure for Public Hearings.

Section 3-301. Applicability. The procedures set out in this Division shall be applicable to all public hearings required by any provision of these LDRs.

Section 3-302. Notice. In every case where a public hearing is required pursuant to these LDRs, City staff shall provide a notice of public hearing in the manner set out in this section.

A. Publication. The requirements for this type of notice shall be as follows:

1. Notice shall be published at least one time in a newspaper of general circulation published in the City of North Miami, or in Miami-Dade County, Florida, at least ten (10) days prior to the date of any required public hearing.
2. The notice of hearing shall state the date, time and place of the meeting; the titles of the proposed ordinances or resolution or a description of the substance of the matter being considered; and the place within the City where the proposed ordinances or other materials may be inspected by the public. The notice shall also state that interested parties may appear at the meeting and be heard with respect to the matter.
3. A copy of the notice shall be available for public inspection at City Hall during the regular business hours of the City.
4. Notice for ordinances that change the actual list of permitted, conditional or prohibited uses, within a zoning category/district, or ordinances initiated by the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be published at least ten (10) days prior to the Planning Commission public hearing, again at least seven (7) days prior to the first City Council public hearing and again at least five (5) days prior to the second City Council adoption hearing. Public notice shall be provided as described in the following subsections:
 - a. The required advertisements shall be no less than two columns wide by ten inches long in a standard size tabloid size newspaper and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality, not one of limited subject matter, pursuant to Chapter 50 of the Florida Statutes. Whenever possible, the advertisement shall appear in a newspaper that is published at least five (5) days a week unless the only newspaper in the City is published less than five (5) days a week.
 - b. The advertisement shall be in substantially the following form:

Notice of (Type) Change

The City of North Miami proposes to adopt the following ordinance or application: (title of ordinance or description of application).

A public hearing on the ordinance will be held on (date) at (time) at (location).

The proposed ordinance or application materials are available for inspection at the office of the Department of Community Planning and Development during normal business hours.

Interested parties may appear at the meeting and will be given the opportunity to be heard on the matter.

Except for amendments which change the actual list of permitted, conditional or prohibited uses within a zoning category, the advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance or application. The map shall include major street names as a means of identification of the general area.

- c. In lieu of publishing the advertisement set out in this section, the City may mail a notice to each person owning real property within 500 feet of the property covered by the ordinance or application. Such notice shall clearly explain the proposed ordinance or application and shall notify the persons of the date, time and location of any public hearing on the proposed ordinance or application. The notice shall also inform the persons that the materials are available for inspection and of their opportunity to attend the meeting and be heard.
5. Ordinances initiated by other than the City that would change the actual zoning map designation of a parcel of land or parcels of land shall be read by title, in full, at two separate City Council hearings and shall be published at least ten (10) days before the Planning Commission meeting and again at least ten (10) days before the City Council adoption hearing.
6. Notice of small-scale development amendments to the Comprehensive Land Use Plan, initiated by someone other than the City, shall be published at least ten (10) days before the Planning Commission public hearing and again at least five (5) days before the City Council adoption hearing.
7. All Comprehensive Land Use Plan amendments, other than small-scale amendments, shall be published at least ten (10) days before the Planning Commission public hearing, and again at least seven (7) days before the first City Council meeting, and again at least five (5) days before the City Council adoption hearing.

8. Failure to provide advertised notice as set forth in the foregoing notice requirements shall not affect any action or proceedings taken under this section unless such notice is required by Florida Statutes.

B. Posting Property.

1. Except as provided in subsection B.2., all specific property being considered at a public hearing shall be posted at least ten (10) days in advance of the public hearing, provided however that the posting of specific property shall not be required when the property subject to change constitutes more than ten contiguous acres. Such posting shall consist of a sign, the face surface of which shall not be larger than 576 square inches in area, with black lettering and shall contain the following language:

[NAME OF DECISION-MAKING BODY]

NOTICE OF PUBLIC HEARING

PHONE: -----

HEARING DATE: -----

HEARING TIME: -----

HEARING NO.: -----

ACTION REQUESTED: -----

ADDRESS: -----

2. No posting shall be required for meetings of the Business Development Board.
3. The sign shall be erected in full view of the public on each street side of the subject property. Where large parcels of property are involved with street frontages extending over considerable distances, as many signs shall be erected on the street frontage as may be deemed adequate by the City staff to inform the public.
4. The sign shall be located within the boundaries of the subject property and visible from the street.
5. The height of such sign shall be erected to project not more than seven (7) feet above the surface of the ground.
6. Failure to post specific property shall not affect any action or proceeding taken under the provisions of these LDRs.

C. Mailed Notices.

1. Except for meetings before the Business Development Board, a notice of public hearing affecting specific properties containing general information as to the date, time, place of the hearing, property location and general nature of the application may be mailed to the property owners whose addresses are known by reference to the latest ad valorem tax record, within a 500' radius. This notification requirement is measured in feet from the perimeter boundaries of the subject property. The expense of mailing notice shall be borne by the applicant.

The Community Planning and Development Department may require that an additional area receive a courtesy notice on any application. The Building and Zoning Department may also require courtesy notices on applications that are not typically required to be so noticed if it is determined that such notice is desirable.

2. Courtesy notice shall be mailed at least ten (10) days prior to the date of the public hearing.
3. When a proposed ordinance is initiated by the City that changes the actual zoning map designation for a parcel or parcels of land less than ten (10) acres, the Community Planning and Development Department shall notify, by mail, each real property owner whose land the City will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. In addition, the notice will be mailed to all owners of property within a 500' radius of the subject property. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a place and time for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the Planning Commission meeting and again at least thirty (30) days prior to the date of the City Council public hearing.
4. Notice of small-scale development amendments to the Future Land Use Map, initiated by the City, shall be mailed to each owner of record of the property subject to the amendment in the current tax rolls. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the Planning Commission public hearing and again at least thirty (30) days prior to the date of the City Council public hearing.
5. Notice for ordinances that change the actual list of permitted, conditional or prohibited uses or special exceptions within a zoning category/use district, or ordinances initiated by the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be mailed at least ten (10) days prior to the Planning Commission public hearing,

again at least seven (7) days prior to the first City Council public hearing and again at least five (5) days prior to the second City Council adoption hearing.

6. A copy of mailed notice shall be available for public inspection during the regular business hours of the City.
7. Failure to mail or receive notice shall not affect any action or proceeding taken under these LDRs. Except for courtesy notices, the applicant shall be required to provide a mailing list and labels of the area within the radius prescribed above to the City. The mailing list shall be accompanied by a map certified by a registered surveyor or engineer indicating the property within a 500' radius of the subject property.

Section 3-303. Quasi-Judicial Procedures.

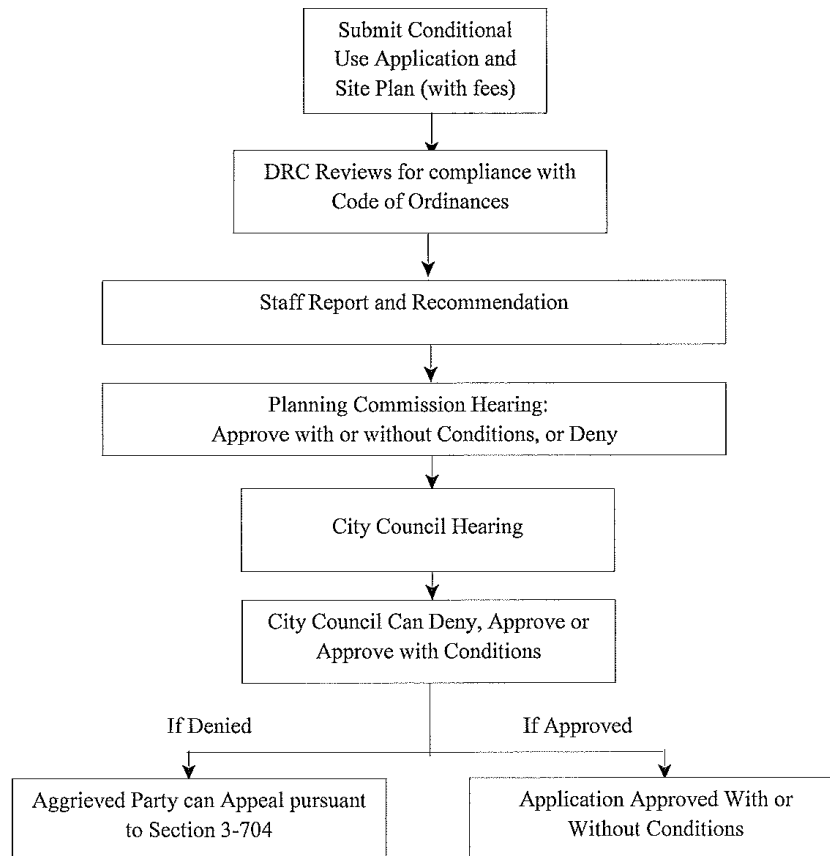
- A. Applicability. The provisions of this section apply to all quasi-judicial hearings held pursuant to these LDRs.
- B. Order of Presentation. Quasi-judicial hearings shall be conducted generally in accordance with the following order of presentation:
 1. Disclosure of ex parte communications and personal investigations pursuant to subsection C, below.
 2. Presentation by City staff.
 3. Presentation by the applicant.
 4. Public comment.
 5. Cross-examination by City staff.
 6. Cross-examination by the applicant.
 7. Cross-examination by the decision-making body.
 8. Rebuttal by the applicant.
 9. Closing of public hearing.
 10. Discussion among members of the decision-making body.
 11. Motion by decision-making body with explanation of position.

12. Action by decision-making body, including amendments to the motion if desired, and entry of specific findings.

C. Ex Parte Communications.

1. Any person not otherwise prohibited by statute, charter provision or ordinance may discuss the merits of any matter on which action may be taken by any decision-making body with any member of the decision-making body.
2. Members of the decision-making body shall disclose ex parte communications and personal investigations regarding pending quasi-judicial decisions in accordance with applicable Florida law.

Division 4. Conditional Uses.



Section 3-401. Purpose and Applicability.

- A. Purpose. The purpose of providing for conditional uses is to recognize that there are uses which may have beneficial effects and serve important public interests, but which may, but not necessarily, have adverse effects on the environment, overburden public services or change the desired character of an area. Conditional uses are permitted uses in a particular zoning district that require individualized review due to the potential individual or cumulative impacts that they may have on the surrounding area or neighborhood. The review process allows the imposition of conditions to mitigate identified concerns or to deny the use if concerns cannot be resolved.
- B. Applicability. Conditional use approval is the mechanism for approval of all planned development district applications for allocating units in the NRO District and approval of density and height bonuses in Article 4, Section 4-404.

Section 3-402. General Requirements.

In addition to the application for a conditional use permit, the following items shall be submitted for review and approval:

- A. Phasing Plans. A progress plan delineating the various development phases, if more than one, and specifying a reasonable time allocation for each phase.
- B. Landscape and Irrigation Plan. A detailed landscaping plan indicating type and size of trees, shrubs, ground cover and other horticulture.
- C. Site Plan. A detailed site plan of the proposed development, in accordance with administrative regulations.
- D. Impact Analysis. The form and content of impact analyses shall be as set forth in administrative regulations.

Section 3-403. Application.

An application for conditional use approval shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.

Section 3-404. Staff Review, Report and Recommendation.

- A. City staff shall review the application in accordance with the procedural provisions of Article 3, Division 2 of these LDRs and this Division.
- B. Upon completion of review of an application, City staff shall:

1. Provide a report that summarizes the application, including whether the application complies with each of the standards for granting conditional use approval in Section 3-405.
2. Provide written recommended findings of fact regarding the standards for granting conditional use approval.
3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
4. Provide the report and recommendation, with a copy to the applicant, to the Planning Commission for review.
5. Provide notice of the hearing before the Planning Commission in accordance with the provisions of Article 3, Division 3 of these LDRs.
6. After the Planning Commission hearing and recommendation, compile the Planning Commission recommendation together with the staff recommendation and report for the hearing before the City Council.
7. Provide notice of the hearing before the City Council in accordance with the provisions of Article 3, Division 3 of these LDRs.

Section 3-405. Standards for Approval of Conditional Uses.

- A. Applications for conditional use shall demonstrate compliance with the following standards:
1. The application is consistent with the Comprehensive Land Use Plan;
 2. The application is in compliance with the district regulations applicable to the proposed development, including the bonus provisions in Section 4-404, if applicable;
 3. The application is consistent with the applicable development standards in these LDRs;
 4. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use or adequate mitigation is provided;
 5. The proposed use is compatible with the nature, condition and development of adjacent uses, buildings and structures and will not adversely affect the adjacent uses, buildings or structures;

6. The parcel proposed for development is adequate in size and shape to accommodate all development features;
 7. The proposed use will not have an adverse impact on use, livability, value and development of adjacent properties;
 8. The nature of the proposed development is not detrimental to the public health, safety and general welfare of the community;
 9. The design of the use creates a form and function which enhances the community character of the immediate vicinity of the parcel proposed for development; and
 10. Flexibility in regard to development standards is justified by the benefits to community character and the immediate vicinity of the parcel proposed for development;
- B. Conditional uses may be granted some flexibility in the application of the development standards in Articles 4 and 5; provided however, that:
1. the limitations in height and density in Article 4 may not be exceeded for the zoning district in which the property is located; and
 2. no deviations from the transitional standards in the NRO District may be granted.

Section 3-406. Planning Commission Recommendation.

The Planning Commission shall review the application for conditional use, the recommendation and report of City staff and the standards for conditional uses in Section 3-405. The Planning Commission may attach such conditions to the approval of the conditional use that are necessary to ensure compliance with the standards in Section 3-405 in furtherance of protecting the public health, safety and general welfare. The Planning Commission, after reviewing the reports and application as well as hearing testimony at the public hearing, shall make a recommendation for approval, approval with conditions or denial.

Section 3-407. City Council Decision.

The City Council shall review the application, the recommendation of the Planning Commission and City staff and shall conduct a quasi-judicial public hearing on the proposed conditional use request. The City Council, at the conclusion of the public hearing, shall render a decision on the conditional use to either approve, approve with conditions or deny the proposed conditional use. The City Council shall set forth its findings in writing.

Section 3-408. Effect of Decision.

Approval of a conditional use shall be deemed to authorize only the particular use(s) for which it is issued and shall entitle the recipient to apply for a building permit or any other approval that may be required by these LDRs, the City or regional, state or federal agencies. Within one (1) year after approval of a planned development conditional use approval, a precise plan shall be filed denoting overall development as approved by the City Council and all permits which are issued for the conditional use shall be in accordance with the provisions of the precise plan. If a precise plan is not filed within one (1) year, the conditional use approval shall be null and void.

Section 3-409. Appeals.

An appeal from a decision of the City Council regarding a conditional use may be taken in accordance with the provisions of Section 3-704.

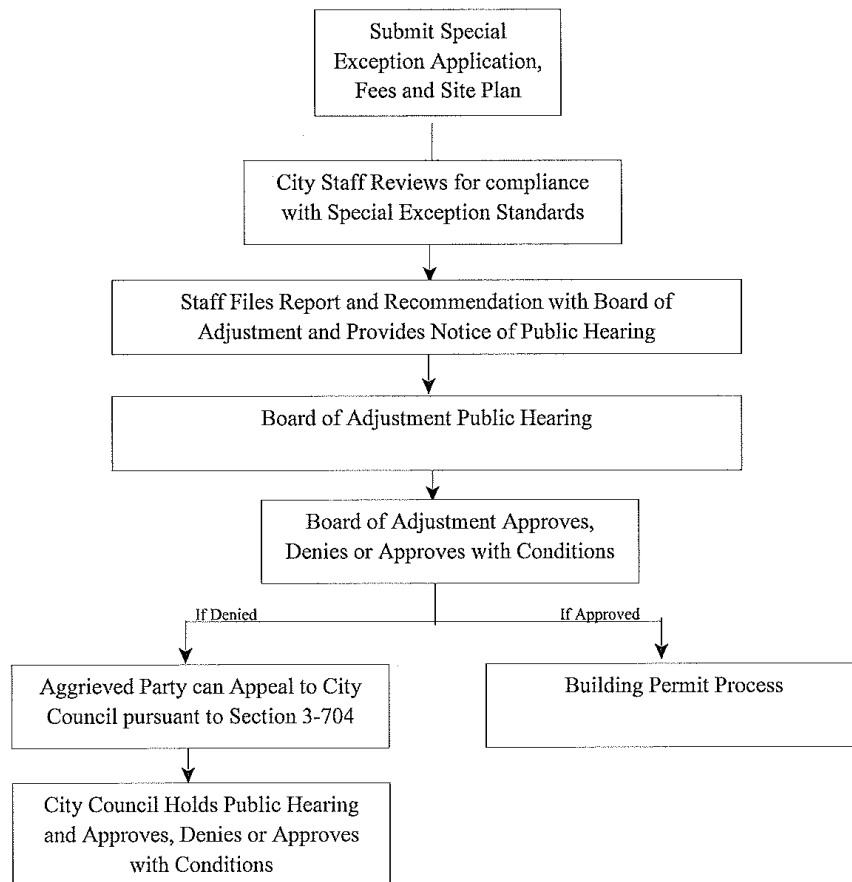
Section 3-410. Changes to Conditional Use Approvals.

- A. Minor Revisions. The Director of Community Planning and Development is authorized to allow minor revisions to an approved conditional use permit after receipt of comments from the Development Review Committee. A minor revision is one which:
1. Does not affect the conditional use criteria applicable to the conditional use.
 2. Does not alter the location of any road or walkway by more than five (5) feet.
 3. Does not change the use.
 4. Does not change a condition of approval.
 5. Does not increase the density or intensity of the development.
 6. Does not result in a reduction of setback or previously required landscaping.
 7. Does not result in a substantial change to the location of a structure previously approved.
 8. Does not add property to the parcel proposed for development.
 9. Does not increase the height of the buildings.
- B. Substantial Revisions. Any proposed change that does not meet the above criteria is not minor and must be reviewed in accordance with the procedures for an original approval, including new application materials and payment of fees.

Section 3-411. Expiration of Approval.

Unless otherwise specified in the approval, an application for a building permit shall be made within one (1) year of the date of the conditional use approval. An extension of time may be granted by the Director of Community Planning and Development for a period not to exceed six (6) months and only within the original period of validity.

Division 5. Special Exceptions.



Section 3-501. Purpose and Applicability.

- A. Purpose. The purpose of providing for special exceptions is to recognize that there are uses which may have beneficial effects and serve important public interests, but which may, but not necessarily, have adverse effects on the environment, overburden public services or change the desired character of an area. Special exceptions are permitted uses in their respective zoning districts that require individualized review due to the potential individual or cumulative

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- B. Applicability. Special exception approval is required for all uses listed as requiring special exception approval in the zoning districts in Article 4.

Section 3-502. Application.

An application for special exception approval shall be made in writing upon an application form approved by the City, accompanied by a site plan and other information required and applicable fees.

Section 3-503. Staff Review, Report and Recommendation.

- A. City staff shall review the application in accordance with the provisions of Division 2 of this Article and this Division.
- B. Upon completion of review of an application, City staff shall:
 - 1. Provide a report that summarizes the application, including whether the application complies with each of the standards for granting special exception approval in Section 3-504.
 - 2. Provide written recommended findings of fact regarding the standards for granting special exception approval.
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
 - 4. Provide the report and recommendation, with a copy to the applicant, to the Board of Adjustment for review.
 - 5. Provide notice of the hearing before the Board of Adjustment in accordance with the provisions of Article 3, Division 3 of these LDRs.
 - 6. After the Board of Adjustment hearing and decision, prepare and record a special exception permit and provide the applicant with a copy.

7. If the decision of the Board of Adjustment is appealed to the City Council, provide notice of the hearing before the City Council in accordance with the provisions of Article 3, Division 3 of these LDRs, and the original notice requirements for the special exception approval.

Section 3-504. Standards for Approval.

Applications for special exceptions shall demonstrate compliance with the following standards:

- A. The use is a listed special exception in the district where the property is located.
- B. There is appropriate provision for access facilities adequate for the estimated traffic from public streets and sidewalks so as to assure the public safety and to avoid traffic congestion.
- C. There are adequate parking areas and off-street truck loading spaces (if applicable) for the anticipated number of occupants, employees, patrons, and the layout of the parking is convenient and conducive to safe operation.
- D. There is suitable landscaping or fencing along side lot and rear lot lines adjacent to residential uses or residential zoning districts.
- E. The proposed special exception is reasonable in terms of logical, efficient and economical extension of public services and facilities, such as public water, sewers, police and fire protection, and transportation.
- F. The proposed special exception will constitute an appropriate use in the area and will not substantially injure or detract from the use of the surrounding property or from the character of the neighborhood.

Section 3-505. Board of Adjustment Decision.

The Board of Adjustment shall review the application for special exception, the recommendation and report of City staff and the standards for special exception in Section 3-504. The Board of Adjustment shall conduct a quasi-judicial public hearing on the application and may attach such conditions to the approval of the special exception that are necessary to ensure compliance with the standards in Section 3-504 in furtherance of protecting the public health, safety and general welfare. The Board of Adjustment, after reviewing the reports and application as well as hearing testimony at the public hearing, shall approve, approve with conditions or deny the application.

Section 3-506. Appeal to City Council.

An appeal from a decision of the Board of Adjustment may be taken by an aggrieved party to the City Council in accordance with the provisions of Section 3-703. The City Council shall review the application, the decision of the Board of Adjustment and City staff's recommendation and

shall conduct a quasi-judicial public hearing on the appeal of the special exception. The City Council, at the conclusion of the public hearing, shall render a decision on the appeal of the special exception to either approve, approve with conditions or deny the proposed special exception. The City Council shall set forth its findings in writing.

Section 3-507. Appeals from City Council.

An appeal from a decision of the City Council regarding a special exception may be taken in accordance with the provisions of Section 3-704.

Section 3-508. Effect of Decision.

Approval of a special exception shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for a building permit or any other approval that may be required by these LDRs, the City or regional, state or federal agencies.

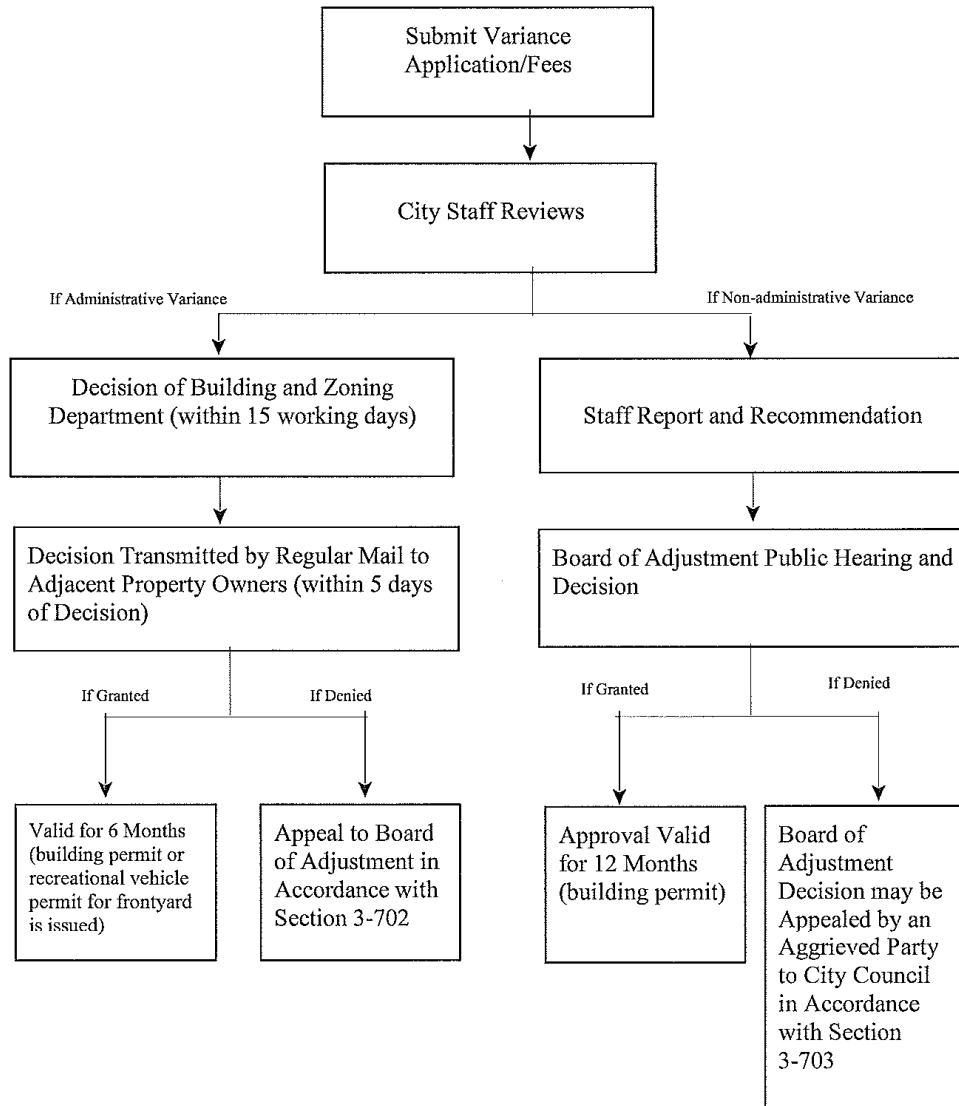
Section 3-509. Changes to Special Exception Approvals.

- A. Minor Revisions. The Building and Zoning Department is authorized to allow minor revisions to an approved special exception. A minor revision is one which:
1. Does not affect the special exception standards applicable to the special exception.
 2. Does not alter the location of any road or walkway by more than five (5) feet.
 3. Does not change the use.
 4. Does not change a condition of approval.
 5. Does not increase the density or intensity of the development.
 6. Does not result in a reduction of setback or previously required landscaping.
 7. Does not result in a substantial change to the location of a structure previously approved.
 8. Does not add property to the parcel proposed for development.
 9. Does not increase the height of the buildings.
- B. Substantial Revisions. Any proposed change that does not meet the above criteria is not minor and must be reviewed in accordance with the procedures for an original approval.

Section 3-510. Expiration of Approval.

Unless otherwise specified in the approval, an application for a business tax receipt or building permit necessary to establish such use shall be made within one (1) year of the date of the special exception approval. An extension of time may be granted by the Building and Zoning Department for a period not to exceed six (6) months, and only if requested within the original period of validity.

Division 6. Variances



Section 3-601. Purpose and Applicability.

The purpose of this Division is to establish a procedure for reviewing and granting variances from the literal terms of these LDRs where there are practical difficulties or unnecessary and undue hardships so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. No variances may be granted to permit a use not listed as a permitted use in the applicable zoning district and/or to permit a prohibited use.

Section 3-602. Application.

An application for a variance shall be made in writing upon an application form approved by the City staff, accompanied by such other information as required by the City and by applicable fees.

Section 3-603. Staff Review, Report and Recommendation.

- A. City staff shall review the application in accordance with the provisions of this Division.
- B. Upon completion of review of an application, City staff shall:
 - 1. Provide a report that summarizes the application and the effect of the proposed variance, including whether the variance complies with each of the standards for granting administrative variances in Section 3-604 or the standards for other variances in Section 3-606.
 - 2. Provide written recommended findings of fact regarding the standards for granting non-administrative variances as provided for in Section 3-606.
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions or denied.
 - 4. Schedule the application for hearing before the Board of Adjustment, if not an application for administrative variance.
 - 5. Provide notice of the hearing in accordance with the provisions of Article 3, Division 3 of these LDRs.

Section 3-604. Administrative Variances.

- A. Non-use administrative variances may be granted by the Building and Zoning Department for applications under the following circumstances:
 - 1. For single family, duplex, triplex or townhouse project a variance to setback requirements where the setback is not decreased by more than twenty percent (20%) of what is required in the applicable zoning district.

2. A variance for setbacks for docks not to exceed ten (10) percent of the required setback.
 3. A parking variance for the first restaurant in a shopping center which existed on the date of adoption of these LDRs. If a parking variance is required for the second restaurant in an existing center, the Board of Adjustment shall consider the variance in accordance with the provisions of Section 3-605.
 4. For single-family, duplex, triplex, or townhouse lot, a variance to allow a driveway to maintain a side yard setback between 2.5' and 5', provided that the driveway is composed of pervious materials.
 5. A variance for the parking or storage of recreational vehicles pursuant to Section 5-1405.
 6. A variance for any carport structure within the required front and side setbacks pursuant to Section 5-103.
- B. The granting of an administrative variance shall be based on the following:
1. The variance is in harmony with the character of the immediate neighborhood and is in keeping with community goals as they relate to quality of life; and
 2. The variance will not adversely affect or be injurious to the adjacent uses, immediate neighborhood and the community as a whole.
- C. The decision shall be transmitted by regular mail in writing to the adjacent property owners within five (5) working days of the decision being rendered.
- D. An administrative variance granted under these procedures shall be valid for six (6) months from the final date of approval, after which it shall become null and void unless a building permit is issued or a recreational vehicle (in the front yard) permit is granted or an extension is granted. The Building and Zoning Department is authorized to grant one six-month extension. Any further extension shall require the application to be resubmitted as an entirely new application.
- E. Appeals of decisions on an application for an administrative variance may be taken to the Board of Adjustment in accordance with the provisions of Section 3-702.

Section 3-605. Review, Hearing and Decision by Board of Adjustment.

The Board of Adjustment shall review an application for all variances which are not administrative, the report, recommendation and proposed findings prepared by City staff, and conduct a quasi-judicial public hearing on the application in accordance with the requirements of

Section 3-303 and render a decision. The decision shall be based upon written findings of fact and the Board of Adjustment shall either grant, grant with conditions or deny the variance.

Section 3-606. Standards for Variances.

In order to authorize any variance from the terms of these LDRs, the Board of Adjustment shall find that the applicant has demonstrated compliance with 4 of 6 of the following standards:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The unusual circumstances or conditions necessitating the variance request are present in the neighborhood and are not unique to the property.
3. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the City.
4. The literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs.
5. The variance requested is the minimum variance that will make possible the reasonable use of the land, structure or building.
6. The granting of the variance will be in harmony with the general intent and purpose of these LDRs and such variance will not be injurious to the area involved.

Section 3-607. Time Limit for Variances.

Any variance granted under the provisions of this Division shall become null and void and of no effect twelve (12) months from and after the date of approval, unless within such period of twelve (12) months a building permit is issued if required; or if no permit is required, unless the requested action permitted by the variance shall have taken place within the 12-month period. An extension of six (6) months may be granted by the Director of Building and Zoning for good cause.

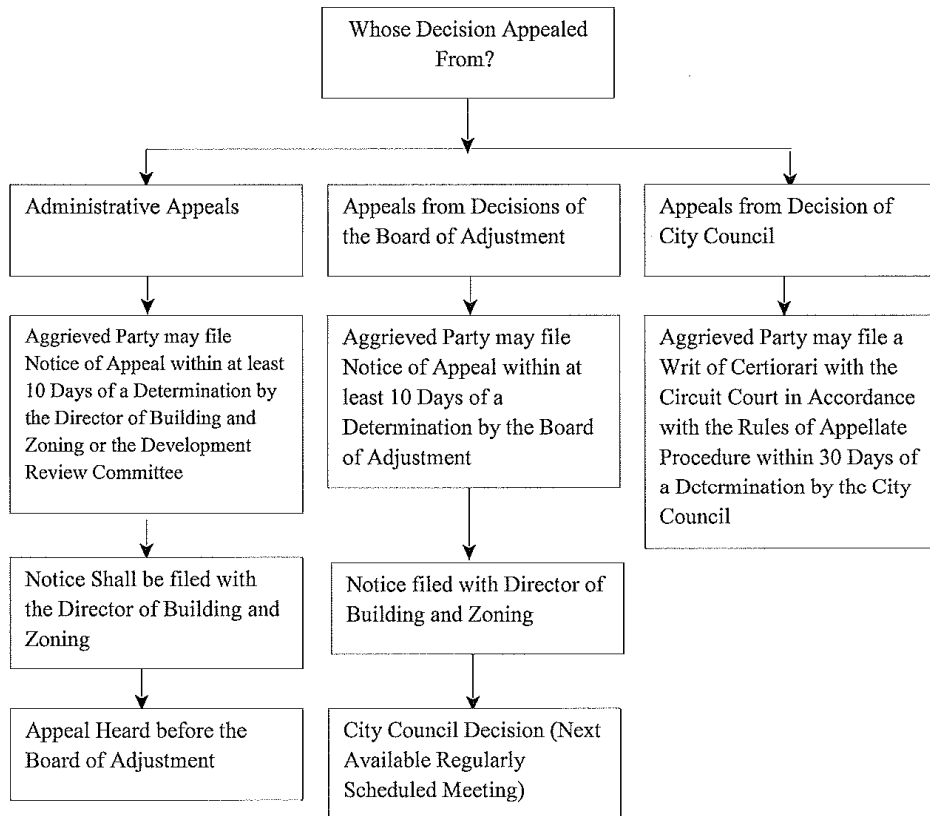
Section 3-608. Effect of Decision.

Approval of a variance shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for a building permit or any other approval that may be required by these LDRs, the City or regional, state or federal agencies.

Section 3-609. Appeals of Board of Adjustment Decision to City Council.

An appeal from any decision of the Board of Adjustment regarding variances may be taken to the City Council by an aggrieved party in accordance with the provisions of Section 3-703.

Division 7. Appeals.



Section 3-701. Purpose and Applicability.

The purpose of this Division is to set forth procedures for appealing the decisions of City staff and the City's decision-making bodies where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs.

Section 3-702. Administrative Appeals.

An appeal from any decision by the Director of Building and Zoning or the Development Review Committee where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs, shall be taken by an aggrieved party to the Board of Adjustment. An aggrieved party may file a notice of appeal to the Board of Adjustment with the Building and Zoning Director within ten (10) days of the administrative decision being appealed. The notice of appeal should be accompanied by any relevant documents related to the appeal and applicable fees.

Section 3-703. Appeals from Decisions of the Board of Adjustment

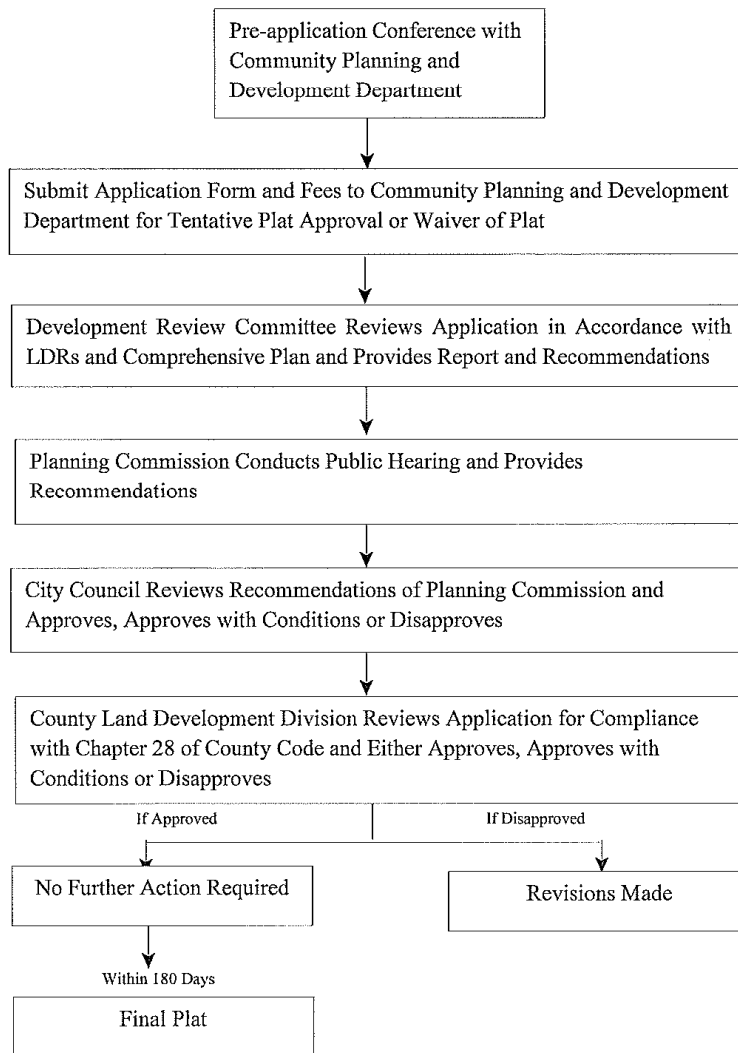
An appeal from any decision of the Board of Adjustment may be taken to the City Council by an aggrieved party pursuant to the procedures in this Section. Within ten (10) days of a decision of the Board of Adjustment, a written notice of appeal shall be filed with the Building and Zoning Director, along with applicable fees, whose duty shall then be to send notice of such appeal to all persons previously notified by the Board in the underlying matter. The appeal shall be heard by the City Council at the next available regularly scheduled meeting.

Section 3-704. Appeals from Decisions of the City Council.

Any person aggrieved by any decision or action taken under these LDRs by the City Council may file a petition for Writ of Certiorari with the Circuit Court in accordance with the Florida Rules of Appellate Procedure within thirty (30) days of rendering of the decision.

Challenges to development orders based on consistency or inconsistency of the development order with the City of North Miami Comprehensive Plan shall be governed by the provisions of Section 163.3215, Florida Statutes.

Division 8. Submission of Land Plats.



Section 3-801. Purpose and Applicability.

The purpose of this Division is to provide application and review procedures for the subdivision of land within the City. This Division shall be applicable to any subdivision or re-subdivision of land that creates one or more parcels. No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these LDRs.

Section 3-802. Tentative Plat or Waiver of Plat.

- A. Pre-application Conference. Prior to filing an application for tentative plat or waiver of plat approval, the applicant shall have a pre-application conference with the Community Planning and Development Department.
- B. Application. An applicant for subdivision approval shall submit an application for review of a tentative plat or waiver of plat upon an application form approved by City staff and shall include all applicable fees.
- C. Development Review Committee Report and Recommendation.
 - 1. The Development Review Committee shall review the application in accordance with the provisions of Article 3, Division 2 of these LDRs and the Comprehensive Plan. Any such review by the Development Review Committee shall, at a minimum, include a review and comment by the Public Works Department.
 - 2. Upon completion of review of an application the City Planner shall:
 - a. Prepare a report that summarizes the application, including whether the application complies with these LDRs and the Comprehensive Plan;
 - b. Provide written recommendations as to whether the application should be recommended for approval, approval with conditions or denial.
 - c. Provide the report and recommendation, with a copy to the applicant and to the Planning Commission at least one week prior to the next scheduled meeting of the Planning Commission.
 - d. Schedule the application for hearing before the Planning Commission.
 - e. Provide notice of the hearing before the Planning Commission in accordance with the provisions of Article 3, Division 3 of these LDRs.
- D. Planning Commission Review. Upon receipt of the recommendations of the Development Review Committee, the Planning Commission shall conduct a public hearing on the tentative plat or waiver of plat and shall review to ensure that it conforms to the requirements of these LDRs and the Comprehensive Plan.

- E. **Planning Commission Recommendation.** Upon completion of its review, the Planning Commission shall either recommend the tentative plat or waiver of plat for approval, approval with conditions or disapprove the tentative plat.
- F. **City Council.** The City Council shall review the recommendation of the Planning Commission and then approve, approve with conditions, or disapprove the tentative plat. If the City Council approves the tentative plat, the Mayor signs the plat and it is transmitted to the Miami-Dade County Land Development Division.
- G. **Miami-Dade County Land Development Division.** After the City Council hearing, the applicant shall deliver the signed plat or waiver, along with a signed copy of the approving resolution, with necessary copies, to Miami-Dade County Land Development Division for its review. The County reviews the application for compliance with Chapter 28 of the Code of Miami-Dade County and either approves, approves with conditions or disapproves the tentative plat. The County then notifies the City and the applicant of its decision. If the waiver of plat is granted by the County no further action is required.
- H. **Expiration of Tentative Plat.** The tentative plat shall expire and be of no further force and effect if a completed application for a final plat is not filed as set forth in Section 3-803 below within one hundred eighty (180) days of approval by Miami-Dade County Land Development Division. After expiration of one hundred and eighty (180) days, the applicant will be required to re-submit the tentative plat for staff and Planning Commission review as set forth in this section.

Section 3-803. Final Plat.

- A. **Application.** The application for final plat review shall be accompanied by all applicable fees including any associated cost recovery fees for external consultant review for checking and investigating the final plat and prepared on a form approved by City staff.
- B. **Incorporation of Changes.** The final plat shall have incorporated all of the changes or modifications recommended by the Planning Commission, the City Council, and any changes or conditions imposed by Miami-Dade County Land Development Division. To the extent that any such modifications have not been made, the applicant shall indicate in writing as part of the application the grounds for any departure.
- C. **Community Planning and Development Department.** Upon completion of its review, the City Planner shall:
 - 1. Prepare a report that summarizes the application, including whether the applicant has complied with the recommendations of the Planning Commission, where applicable, the City Council and Miami-Dade County Land Development Division.

2. Provide written recommendations as to whether the final plat should be approved, approved with conditions or denied.
 3. Provide the report, recommendation and a copy of all prior recommendations to the City Council with a copy to the applicant, at least one (1) week prior to the next scheduled meeting of the City Council. The City Planner shall also prepare a resolution accepting the plat.
 4. Schedule the application for hearing before the City Council.
 5. Provide notice of the hearing before the City Council in accordance with the provisions of Article 3, Division 3 of these LDRs.
- D. Preliminary Approval on Final Plat. Preliminary approval of a final plat may be given by the City Council where bonds, engineering plans or specifications have not been completed by the applicant where conditions make it desirable for the applicant to obtain an expression from the City Council before proceeding further. Preliminary approval vests the applicant for a period of six (6) months with the right to obtain final approval upon the terms and conditions under which said preliminary approval is given. The City Council shall reserve discretion to disapprove the final plat in the event that missing items, such as the bonds, engineering plans or other specifications, do not comply with these LDRs. Except as otherwise provided in Section 3-803H, no building permits shall be issued until the final plat is approved and recorded.
- E. Final Action on Final Plat. The City Council shall review the final plat for conformity to these LDRs and the Comprehensive Plan as well as the requirements from Miami-Dade County Land Development Division. The City Council shall either approve, approve with conditions or disapprove the final plat by resolution. Said resolution shall include any acceptance of dedications made on the plat. When approved, the Mayor, City Clerk and Community Planning and Development Director shall affix their signatures to the plat together with the city seal and resolution number. If approval is granted, the final plat and a copy of the resolution are returned to the applicant for submission to Miami-Dade County Land Development Division, together with four (4) copies for final review by the Board of County Commissioner. When disapproved the City Clerk shall attach to the plat a statement setting forth the reasons for such action and return it to the applicant.
- F. Revisions After City Council Approval and Prior to Recordation.
1. Any changes, erasures, modifications or revisions to an approved plat prior to recordation may only be made by the Director of Community Planning and Development to correct scrivener's errors. reflect accurate legal descriptions and locate right-of-way dedications, drainage ways and easements. However, no such request shall be considered unless the application is made by the preparer of the final plat.

2. No other changes, erasures, modifications or revisions to an approved plat shall be made prior to recordation unless resubmitted for new approval, provided however, the City Council may after public hearing and based only on the recommendation of the Community Planning and Development Department, change, modify or revise dedicated road rights-of-way or drainage easements. No such change, modification or revision of the dedication of road rights-of-way or drainage easements shall be reviewed unless the application is made by the preparer of the final plat.
- G. Recording. Following approval of the final plat by the County, or if forty five (45) days pass from receipt of the plat by the County without any action taken, the final plat shall be recorded, by the applicant, in the public records of Miami-Dade County at the expense of the applicant. A recorded copy of the plat should be filed with the City no later than thirty (30) days from recording.
- H. Building Permits.
1. Except as provided in this subsection, no building permits shall be issued until all subdivision improvements required in connection with the approval of the plat (e.g. monuments, streets, sidewalks, etc.) have either been completed or sufficiently bonded in a form approved by the City Attorney. Proper indemnification must also be reviewed and approved by the City Attorney prior to any building permit issuance.
 2. No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these regulations except permits for a construction trailer or sales office trailer, single family homes and townhouses to be used as models. Permits for entrance features, perimeter walls, lift stations and commercial and industrial buildings, may be issued if the developer complies with the following requirements.
 - a. For construction trailer or trailer used as sales office: No permits will be approved until at least a tentative plat has been approved and the paving and drainage plans have been approved. In addition, no permit shall be issued unless the trailer complies with requirements for providing potable water and sanitary facilities.
 - b. For permanent buildings to be used as single family or townhouse models: Permits for models will be approved when:
 - (1) The tentative plat has been approved by the City Council.
 - (2) Paving and drainage plans have been approved.
 - (3) All plans for public facilities required for the permanent buildings have been reviewed and approved.

- (4) A letter signed by the property owner has been submitted to the City, requesting the construction of models prior to final plat recording. The letter shall include the number of models being requested (only one (1) of each model will be allowed, or only one (1) townhome building) together with the lot and block numbers for each model. The letter shall state that the owner understands and agrees that the model home shall not be occupied until the plat is recorded in the public records and that the penalty for violation of this occupancy prohibition shall be the demolition of the model. The letter shall also state that the owner agrees and shall hold The City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.
 - (5) No certificate of completion shall be issued for any model until after the final plat is recorded except that a temporary certificate of completion may be issued by the Building and Zoning Department.
- c. Entrance features, perimeter wall and lift station permits may be issued after tentative plat approval and receipt of a letter signed by the owner requesting the permit prior to final plat recording and releasing and holding the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.
 - d. For commercial and industrial buildings.
 - (1) The tentative plat has been approved by the City Council.
 - (2) Only one (1) building permit may be issued, on a site, and only one (1) such permit may be issued within a subdivision.
 - (3) Paving and drainage plans (if required) shall have been approved by the Public Works Department.
 - (4) At the time of request, there must be an active set of building plans pertaining to the site, with an active process number under the County's permitting system. The plans must have approvals from the following disciplines or an indication that such approval(s) are non-applicable: building, Department of Environmental Resources Management, electrical, energy, impact fees, mechanical, planning, plumbing, Public Works and structural.

- (5) A letter, signed by the property owner, has been submitted to the City requesting the permit prior to final plat recording. The letter shall state the proposed lot and block or tract for such permit, and the owner's acknowledgment and agreement that no certificate of occupancy will be sought or allowed until after the final plat is recorded. The letter shall also state that the owner agrees and shall release and hold the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature or kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.
 - (6) No certificate of occupancy for the subject structure will be issued until the plat is recorded.
 - (7) The issuance of the building permit shall not modify or affect the concurrency capacity of the underlying tentative plat in any way.
- e. For permanent buildings to be used as single family or townhouse production homes: Permits for single family or townhouse production homes will be approved when:
- (1) The tentative plat has been approved by the City.
 - (2) Paving and Drainage plans have been approved.
 - (3) All DERM requirements, including the approval of Water and Sewer Extension plans are complied with.
 - (4) The proposed final plat for the subdivision in which the production homes are to be located has been listed on an agenda for approval by the City Council.
 - (5) A letter, signed by the property owner, has been submitted to the City requesting approval of production homes prior to final plat recording. The letter shall state that the owner understands and agrees that the production home shall not be occupied until the plat is recorded in the public records and that the penalty for violation of this occupancy prohibition shall be the demolition of the production home. The letter shall also state that the owner agrees and shall hold the City and Miami-Dade County, its employees and agents, harmless from any and all liability and causes of action of whatsoever nature and kind for and as a result of the issuance of building permits and any construction prior to final plat approval and recordation.
 - (6) No certificate of completion shall be issued for any production home until after the final plat is recorded except

that a temporary of certificate of completion may be issued by the Department of Planning and Zoning.

Division 9. Vacation and Abandonment of Right-of-Way and Easements.

Section 3-901. Purpose and Applicability.

The purpose of this Division is to establish a uniform procedure for the abandonment of non-fee property interests of the City. This Division applies to city streets, alleys, easements and other non-fee property interests of similar character.

Section 3-902. Application.

All requests for abandonment of city streets, alleys, easements and other non-fee interests which the City may have in real property shall be made in writing upon an application form approved by City staff and shall be accompanied by applicable fees, and shall be filed with the Community Planning and Development Department.

Section 3-903. Standards.

Applications for vacation or abandonment of city streets, alleys, easements and other non-fee interests which the City may have in real property shall be approved provided that it is demonstrated that:

- A. The non-fee property interest sought to be vacated or abandoned:
 - 1. Does not provide a benefit to the public health, safety, welfare or convenience, in that:
 - a. it is not being used by the City for any of its intended purposes; and
 - b. no comprehensive plan, special purpose plan or capital improvement program anticipates its use; or
 - 2. Provides some benefit to the public health, safety, welfare or convenience, but the overall benefit anticipated to result from the vacation or abandonment outweighs the specific benefit derived from the non-fee property interest, in that:
 - a. the purpose of the interest sought to be vacated or abandoned will be adequately and appropriately served in an alternative manner when the interest is vacated or abandoned;
 - b. the vacation or abandonment will not compromise the delivery of emergency services;
 - c. the vacation or abandonment will not compromise pedestrian or vehicular safety;

- d. the vacation or abandonment will not interfere with solid waste removal services;
 - e. the vacation or abandonment will not frustrate any comprehensive plan, special purpose plan or capital improvement program of the City;
 - f. the vacation or abandonment will not interfere with any planning effort of the City that is underway at the time of the application but is not yet completed; and
 - g. the vacation or abandonment will provide a material public benefit in terms of promoting development or redevelopment of abutting property, removing blighting influences or improving the City's long-term fiscal position.
- B. The proposed vacation or abandonment will be accomplished in accordance with all applicable standards of local, state and federal authorities.
 - C. The proposed vacation or abandonment will promote development or redevelopment that will maintain or enhance the character of the surrounding area.
 - D. The proposed vacation or abandonment will not have a negative fiscal impact on the City or result in development that will have a negative fiscal impact on the City.

Section 3-904. Staff Review, Report and Recommendation.

- A. Upon receipt of an application pursuant to this Division, the Community Planning and Development Department Director shall review the application to determine whether it is complete.
- B. The application package shall be distributed either by regular mail or by hand, to all public utility companies and City-operated utilities that have facilities within the area of the interest sought to be vacated or abandoned. The notice shall request their review and comment within twenty (20) days, and shall be delivered to:
 - 1. City Manager;
 - 2. Community Planning and Development Department;
 - 3. Public Works Department;
 - 4. Police Department;
 - 5. Parks and Recreation Department;

6. City Clerk;
 7. City Attorney; and
 8. Such other agencies as determined by the Director of Community Planning and Development.
- B. Within forty-five (45) days of distribution of the application to public utility companies and City-operated utilities, the Director of Community Planning and Development shall:
1. Review the application for compliance with the standards set out in section 3-903;
 2. Provide a report which addresses the application's compliance with the standards set out in section 3-903 and summarizes all comments submitted with regard to the application;
 3. Provide a proposed resolution granting approval or approval with conditions;
 4. Forward the entire record of the application, including all application materials, the report, the proposed resolution and all correspondence related to the application to the Planning Commission;
 5. Schedule the application for hearing before the Planning Commission; and
 6. Provide notice of the Planning Commission hearing pursuant to Article 3, Division 3.
- C. After the public hearing of the Planning Commission, the Director of Community Planning and Development shall:
1. Schedule the application for hearing before the City Council;
 2. Forward the entire record of the application, including all application materials, the Staff report and recommendation, the proposed resolution, all correspondence related to the application, the findings and recommendation of the Planning Commission, and the transcript of the Planning Commission proceeding to the City Council; and
 3. Provide notice of the City Council hearing pursuant to Article 3, Division 3.

Section 3-905. Planning Commission Review and Recommendation.

The Planning Commission shall:

- A. Review the application at a public hearing;

- B. Make written findings with respect to whether the application complies with the standards set out in Section 3-903; and
- C. Make a written recommendation to the City Council with regard to whether the application should be approved, approved with conditions or denied.

Section 3-906. City Council Review and Decision.

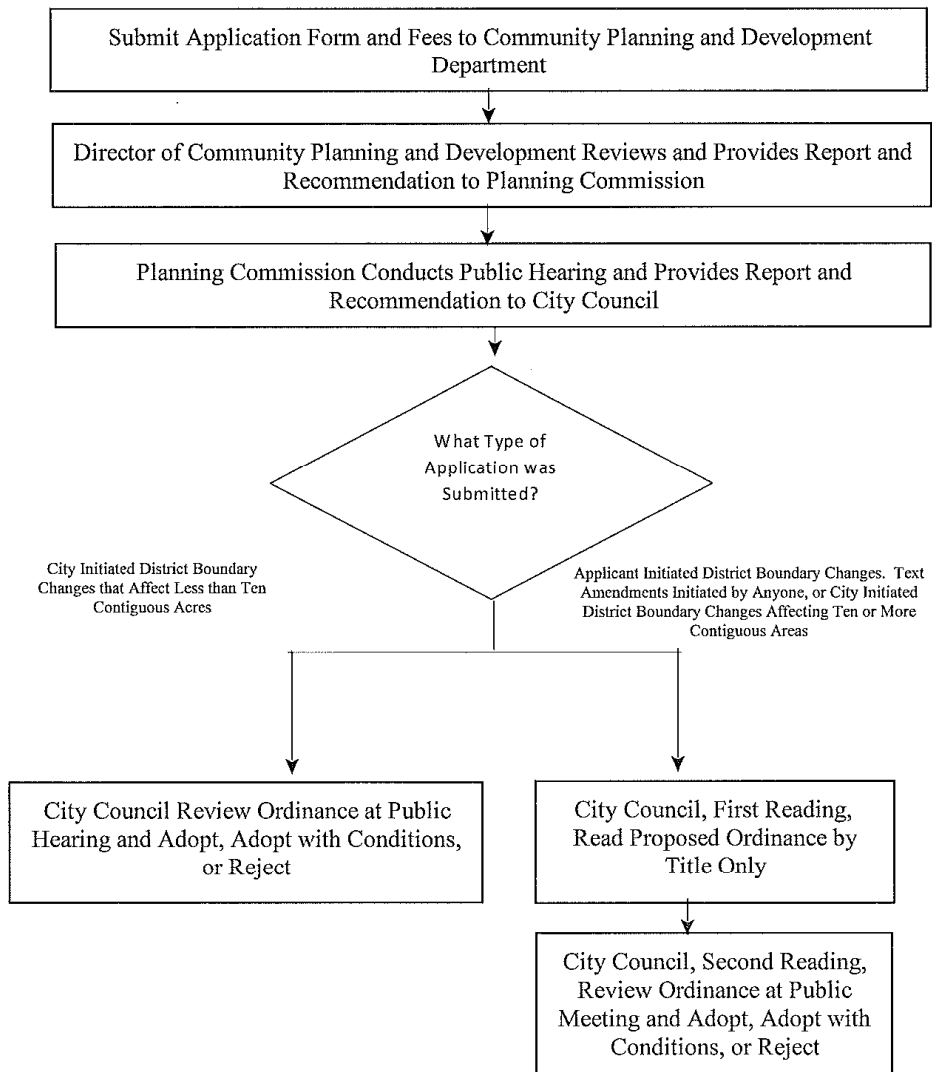
The City Council shall review the application at one public hearing. At the public hearing, the City Council shall:

- A. Decide whether the application should be approved, approved with conditions, denied or deferred;
- B. If the application is not deferred, make written findings of whether the application complies with the standards set out in Section 3-903;
- C. If the application is approved or approved with conditions, cause notice of the approval to be published in accordance with Section 3-908.

Section 3-907. Effect of Vacation or Abandonment.

- A. The effective date of any resolution pursuant to this Division shall be the date of adoption of any resolution or in the event the resolution is subject to conditions, the effective date will be compliance with those conditions.
- B. A vacation or abandonment pursuant to this Division shall renounce and disclaim any rights in any land delineated on any recorded map, and shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public. The title of fee owners shall be freed and released therefrom, and if the fee of road space has been vested in the City, it is surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.
- C. Whenever any street, alley or other public way is vacated or abandoned, the zoning regulations governing the property abutting upon each side of such street, alley or public way shall be automatically extended to the center of the former street, alley or public way.
- D. Whenever land that is the subject of a vacation or abandonment has been built-up by fill of formerly submerged lands, the zoning regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto.

Division 10. Amendments to Text of LDRs and Changes to the Official Zoning Map



Section 3-1001. Purpose and Applicability.

The purpose of this Division is to establish a uniform procedure for Zoning Map changes and for text amendments to these LDRs. This Division applies to all such changes and amendments, whether initiated by the City or by one or more private property owners.

Section 3-1002. Application.

All applications for district boundary changes or text amendments to these LDRs shall be made in writing upon an application form approved by the City, and shall be accompanied by applicable fees.

Section 3-1003. Standards for Applicant-Initiated Zoning Map Changes.

- A. An applicant-initiated zoning map change shall be approved if it is demonstrated that the application satisfies all of the following:
1. It is consistent with the Comprehensive Land Use Plan in that it:
 - a. Does not permit uses which are prohibited in the future land use category of the parcel proposed for development;
 - b. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use category of the parcel proposed for development;
 - c. Will not cause a decline in the level of service for public infrastructure to a level of service that is less than the minimum requirements of the Comprehensive Land Use Plan;
 - d. Does not directly conflict with any goals, objective or policy of the Comprehensive Land Use Plan;
 - e. Is physically suitable for the use permitted in the proposed district;
 - f. Is compatible with the surrounding areas, zoning designations(s) and existing uses.
 2. Will provide a benefit to the City in that it will achieve two or more of the following objectives:
 - a. Improve mobility by reducing vehicle miles traveled for residents within a one-half mile radius by:
 - i. balancing land uses in a manner that reduces vehicle miles traveled;

- ii. creating a mix of uses that creates an internal capture rate of greater than twenty percent (20%); or
 - iii. increasing the share of trips that use alternative modes of transportation, such as public transit ridership, walking or bicycle riding.
 - b. Promote high-quality development or redevelopment in an area that is experiencing declining or flat property values;
 - c. Create affordable-workforce housing opportunities for people who work in the City of North Miami; or
 - d. Implement specific objectives and policies of the Comprehensive Land Use Plan;
 - e. Promote development patterns that will not interfere with hurricane evacuation;
 - f. Promote high quality environmental safety design techniques or promotes crime prevention through defensible space design approaches (CPED);
 - g. Improve environmental quality by adopting “green initiatives” through Leadership in Energy and Environmental Design (LEED) consistent with the Green Building Rating System Version 2.2 as amended; and
 - 3. Will not cause a diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use.
- B. An applicant may propose limitations regarding the use, density or intensity which will be permitted on the parcel proposed for development in order to achieve compliance with the standards of this section. Such limitations shall be offered by a restrictive covenant or declaration of use that is provided to the City in recordable form acceptable to the City Attorney.

Section 3-1004. Standards for Text Amendments to these LDRs and for City-Initiated Zoning Map Changes.

The Planning Commission shall not recommend adoption of and the City Council shall not adopt text amendments to these LDRs or City-initiated zoning map changes unless the text amendment or zoning map change:

- A. Promotes the public health, safety and welfare;
- B. Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the zoning map change or text amendment;

- C. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;
- D. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;
- E. Does not directly conflict with an goal, objective or policy of the Comprehensive Land Use Plan; and
- F. The proposed amendment furthers the orderly development of the City of North Miami.

Section 3-1005. City Staff Review, Report and Recommendation.

- A. Upon receipt of an application pursuant to this Division, the Director of Community Planning and Development shall review the application in accordance with the provisions of this Division.
- B. Upon completion of review of an application, the Director of Community Planning and Development shall:
 - 1. Review the application for compliance with the standards of this Division.
 - 2. Provide a report with regard to the application's compliance with the standards of this Division.
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied.
 - 4. Schedule the application for hearing before the Planning Commission.
 - 5. Provide notice of the Planning Commission hearing pursuant to Article 3, Division 3.
- C. Upon receipt of the recommendation of the Planning Commission, the Director of Community Planning and Development shall:
 - 1. Schedule the application for hearing before the City Council.
 - 2. Forward the staff report and recommendation and the findings and recommendation of the Planning Commission to the City Council.
 - 3. Provide notice of the City Council hearing pursuant to Article 3, Division 3.

- D. If a second public hearing of the City Council is required, the Director of Community Planning and Development shall provide timely notice of the public hearing pursuant to Article 3, Division 3.

Section 3-1006. Planning Commission Review and Recommendation.

The Planning Commission shall:

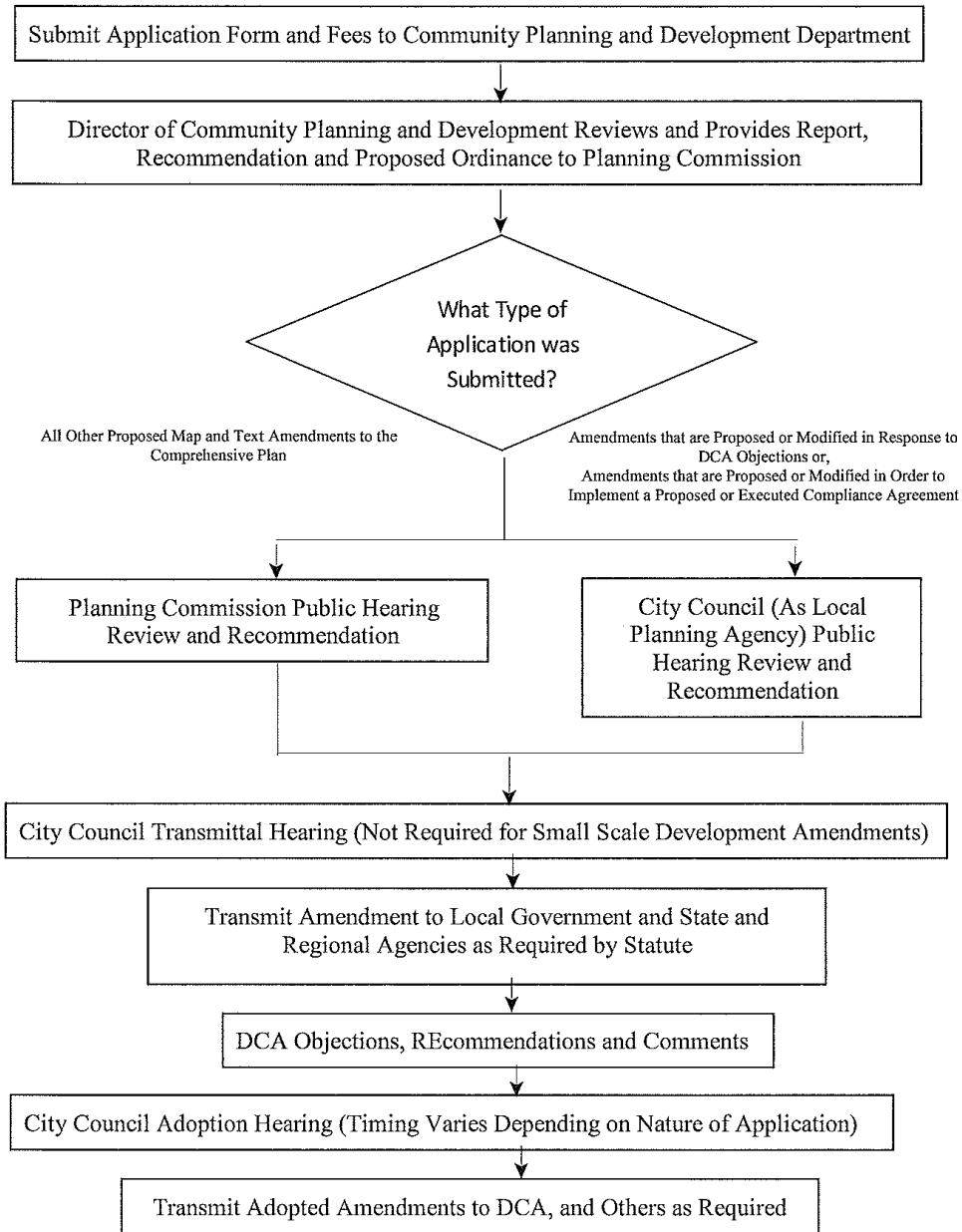
- A. Review the application at a public hearing;
- B. Make written findings with respect to whether the proposed zoning map change or text amendment to these LDRs is consistent with the Comprehensive Land Use Plan; and
- C. Make a written recommendation to the City Council with regard to whether the application should be approved, approved with conditions or denied.

Section 3-1007. City Council Review and Decision.

- A. For applicant-initiated zoning map changes, text amendments to these LDRs and City-initiated district boundary changes that affect ten (10) acres or more contiguous acres of property, the City Council shall hold two public hearings as follows:
 - 1. At the first public hearing, the City Council shall read the proposed ordinance by title only.
 - 2. At the second hearing the City Council shall:
 - a. If the proposed ordinance is applicant-initiated, review the application for compliance with the standards set out in Section 3-1004 and decide whether to adopt, adopt with conditions or deny the proposed ordinance; or
 - b. If the proposed ordinance is City-initiated, review the application for compliance with the standards set out in Section 3-1004 and decide whether to adopt, adopt with conditions or deny the proposed ordinance.
 - 3. If the proposed amendment is a zoning map change, changes the list of permitted, conditional or prohibited uses in a district, then one of the public hearings shall be held after 5:00 p.m. on a weekday, unless the City Council, by a majority plus one vote, elects to conduct that hearing at another time of day.
- B. For City-initiated zoning map changes that affect less than ten (10) contiguous acres of property, the City Council shall hold one public hearing, at which it shall:
 - 1. Review the proposed ordinance for compliance with the standards set out in Section 3-1004; and

2. Adopt, adopt with conditions or deny the proposed ordinance.
- C. Approval of a zoning map change shall require an affirmative vote of four (4) members of the City Council.
 - D. Where there has been a denial of a zoning map change or text amendment, no subsequent application for a district boundary change or text amendment affecting the same parcel of property shall be permitted for the period of one (1) year from the date of the denial by the City Council, unless the denial was without prejudice. If the denial was without prejudice, re-application may be made at any time. At the time of denial the City Council may state that it is with prejudice but reduce the one-year period to another specified period.

Division 11. Comprehensive Land Use Plan; Map and Text Amendments.



Section 3-1101. Purpose and Applicability.

The purpose of this Division is to establish a uniform procedure for amending the text and maps of the Comprehensive Land Use Plan. This Division does not supersede the requirements of Section 163, Part II, Florida Statutes. If any part of this Division conflicts with Section 163, Part II, Florida Statutes, the statutory requirement shall control. This Division applies to all text and map amendments to the Comprehensive Land Use Plan, whether initiated by the City or by one or more private property owners.

Section 3-1102. Comprehensive Land Use Plan Amendment Cycles.

- A. The City shall provide two comprehensive plan amendment cycles per calendar year for proposed amendments that are not exempt from the two amendments per year limitation of Section 163.3187(1), Florida Statutes.
- B. If a proposed amendment is directly related to small scale development activities or is otherwise exempt from the two amendment per year limitation pursuant to Section 163.3187(1), Florida Statutes, the proposed amendment may be considered at any time during the calendar year. A small scale development amendment may be adopted if the proposed amendment:
 - 1. Involves a use of 10 acres or less;
 - 2. Does not involve the same property granted a change within the previous 12 months;
 - 3. Does not involve the same owner's property within 200 feet of property granted a change within the previous 12 months;
 - 4. Does not involve a text change to the goals, policies and objectives of the Comprehensive Land Use Plan, but only proposes a land use changed to the future land use map for a site-specific small scale development activity;
 - 5. Does not involve property within an area of critical concern; and
 - 6. The cumulative annual effect of acreage for all small scale amendments does not exceed 120 acres in areas specifically designated as transportation concurrency exception areas, pursuant to Section 163.3180(5), Florida Statutes.

Section 3-1103. Application.

All applications for amendments to the text or maps of the Comprehensive Land Use Plan shall be made in writing upon an application form approved by City staff and shall be accompanied by applicable fees.

Section 3-1104. Conditions of Approval.

- A. An applicant may propose additional limitations regarding the use, density or intensity which will be permitted on a parcel proposed for development. Such limitation shall be offered by executed restrictive covenant or declaration of use that is provided to the City in a recordable form that is acceptable to the City Attorney, and if the amendment is approved with the restrictive covenant or declaration of use, the recording information shall be set out on the Comprehensive Land Use Map.
- B. The City Council may condition the grant of a zoning map amendment upon the timely development of the parcel proposed for development, and may include provisions that the district boundary change does not become effective until a complete application for development approval is accepted by City staff.

Section 3-1105. City Staff Review, Report and Recommendation.

- A. Upon receipt of an application pursuant to this Division, the City staff shall review the application in accordance with the provisions of Article 3, Division 2.
- B. Upon completion of review of an application, the Director of Community Planning and Development shall:
 - 1. Provide a report that summarizes the application and the effect of the proposed amendment, including:
 - a. whether it specifically advances any goal, objective or policy of the Comprehensive Plan;
 - b. its effect on the level of service of public infrastructure;
 - c. its effect on environmental resources;
 - d. its effect on hurricane evacuation;
 - e. its effect on the availability of housing that is affordable to people who work in the City of North Miami; and
 - f. any other effect that City staff determines is relevant to the City Council's decision on the application;
 - 2. Provide a recommendation as to whether the application should be approved, approved with conditions or modifications, or denied;
 - 3. Provide a proposed ordinance that could be used to adopt the proposed amendment;

4. Schedule the application for a hearing before the Planning Commission; and
 5. Provide notice of the Planning Commission hearing pursuant to Article 3, Division 3.
- C. Upon receipt of the decision of the Planning Commission where a Planning Commission hearing was required, the City staff shall:
1. Schedule the application for hearing before the City Council;
 2. Forward its report and recommendation and the recommendation of the Planning Commission, as applicable, to the City Council; and
 3. Provide notice of the City Council hearing in accordance with the provisions of Article 3, Division 3.
- D. Notwithstanding the requirements of Division 11, Sections 3-1105 through 3-1107, if the proposed amendment is a small scale amendment, the following public hearing and notice requirements shall be applicable:
1. The requirements of Section 163.3184(15)(c), Florida Statutes regarding a sign-in form advising people of the availability of a courtesy informational statement, do not apply to the proposed amendment.
 2. The City shall send copies of the notice and plan amendment to the DCA, the South Florida Regional Planning Council and any other person or entity requesting a copy. The information shall include a statement advising whether the property subject to the proposed plan amendment is located within a coastal high-hazard area.
 3. Small scale development amendments require only one public hearing before City Council, which shall be scheduled in accordance with Section 3-1109. Small scale amendments are not subject to Division 11, Sections 3-1106 through 3-1108 except for Section 3-1106A.3 and A.
 4. Small scale amendments shall become effective 31 days after adoption unless an appeal is filed in accordance with 163.3187(3), Fla. Stat.

Section 3-1106. Local Planning Agency Review and Recommendation.

- A. The Planning Commission shall:
1. Review the application at a public hearing that is held before the transmittal hearing, or if no transmittal hearing is required, before the adoption hearing; and

2. Make a written recommendation to the City Council with regard to whether the proposed amendments should be adopted, adopted with conditions, or rejected,
3. Whenever the Planning Commission votes to recommend approval of a proposed amendment to the comprehensive plan, or when the City sends a copy of the notice and plan amendment to the DCA if the amendment is a small scale amendment, the City Manager shall issue an administrative order setting forth the proposed amendment and establishing a moratorium during which any City employee, board or department is prohibited from granting an approval or permit which would be prohibited, or prohibited without variances, in the event that the proposed amendment is enacted by the City Council. The administrative order shall be effective until the proposed amendment is enacted or rejected by the City Council. Any administrative order shall be deemed expired in the event the City Council fails to:
 - a. adopt a small scale amendment;
 - b. transmit a proposed amendment to DCA; or
 - c. reject an amendment within ninety (90) days after a favorable recommendation by the Planning Commission; or
 - d. fails to enact or reject an amendment within 120 days after receiving comments on the proposed amendment from DCA.
4. Notwithstanding subsection 3. above, no administrative order shall affect any project which has a validly issued building permit, zoning approval, or has completed an application meeting all submission requirements for City approval, Board of Adjustment approval, or building permit approval prior to a vote by the Planning Commission in favor of the proposed amendment.

B. The City Council shall serve as the Local Planning Agency with respect to:

1. Amendments that are proposed or modified in response to DCA objections, comments or recommendations;
2. Amendments that are proposed or modified in order to implement a proposed or executed compliance agreement.

Section 3-1107. Transmittal Hearing.

- A. A transmittal hearing by the City Council shall be held on each proposed comprehensive plan amendment.
- B. All transmittal hearings shall be on weekdays.

- C. If the City Council approves the plan amendment at the transmittal hearing, the City shall immediately transmit the amendment to those local governments and state and regional agencies to which transmittal is required by state statute or administrative rule.

Section 3-1108. DCA Objections, Recommendations and Comments.

- A. If DCA comments on and/or formally objects to a privately initiated amendment, the City shall promptly notify the applicant in writing which shall include a copy of the Objections, Recommendations and Comments Report.
- B. The applicant may submit a draft response to the City within fifteen (15) days. If City staff determines that the draft response is appropriate and responsive to the objection, City staff shall forward the response to DCA.
- C. The City may respond to DCA objections on behalf of an applicant who does not provide an appropriate and responsive objection, but shall not be obligated to do so.

Section 3-1109. Adoption Hearing.

- A. The adoption hearing by the City Council shall be scheduled as follows:
 - 1. Within sixty (60) days of:
 - a. Receipt of DCA's Objections, Recommendations and Comments Report if DCA provides said report; or
 - b. The date the DCA review period ends if the amendment:
 - i. Was transmitted to DCA; and
 - ii. DCA did not object; and
 - iii. No affected person requested review within thirty five (35) days of the date the proposed amendment was transmitted.
 - 2. If submitted as part of the statutory evaluation and appraisal process, within 120 days of receipt of DCA's Objections, Recommendations and Comments Report if DCA provides said report.
- B. At the adoption hearing, the City Council shall adopt the proposed amendment, adopt the proposed amendment with amendments that respond to DCA objections, recommendations or comments, or reject the proposed amendment. Adoption shall require the affirmative vote of a super-majority of the members of City Council.

Section 3-1110. Transmittal of Adopted Amendments.

The City shall transmit all adopted Comprehensive Plan and Future Land Use Map amendments to DCA, the South Florida Regional Planning Council, and any other unit of local government or governmental agency which has requested the amendment in writing within ten (10) working days after the adoption hearing. If the amendment is a small-scale development amendment, the City shall include copies of the public notices with the transmitted material.

Section 3-1111. Compliance Agreements.

The City Council may enter into a compliance agreement with DCA with regard to any proposed or adopted Comprehensive Plan amendment, as follows:

- A. If the City elects to commence negotiation of a compliance agreement with DCA, it shall mail notice to all parties that have intervenor status in proceedings before DCA at least seven (7) days before substantive negotiations commence. Parties that have intervenor status in proceedings before DCA shall be afforded a reasonable opportunity to participate in the negotiation process.
- B. All negotiation meetings with the City and/or the parties with intervenor status in proceedings before DCA shall be open to the public.
- C. No compliance agreement shall be executed by the City unless such execution is considered at a public hearing of the City Council.

Division 12. Protection of Landowner’s Rights; Vested Rights Determinations.

Section 3-1201. Purpose and Applicability. It is the purpose of this Division to provide an administrative remedy for applicants who allege that their vested rights have been abrogated by a final action of the City. This Division sets out a process for obtaining an official and binding determination of vested rights to use or develop property in a particular manner.

Section 3-1202. Application.

- A. All applications for a determination of vested rights pursuant to this Division shall be made in writing upon an application form approved by the Community Planning and Development Department, and shall be accompanied by applicable fees.
- B. Applications pursuant to this Division shall be filed no later than thirty (30) days from the date a final action is taken that allegedly abrogates rights the applicant claims to be vested pursuant to the standards Section 3-1203.

Section 3-1203. Standards. The City Council shall grant an application for a determination of vested rights if it is demonstrated that:

- A. A valid, unexpired government act of the City of North Miami authorizes the specific development for which the determination is sought;
- B. Expenditures or obligations were made or incurred in reliance upon the authorizing act that are not reasonably usable in a development that is permitted by these LDRs;
- C. It would be highly inequitable to deny the applicant the opportunity to complete the previously approved development, in that:
 - 1. Actual construction has commenced;
 - 2. The injury suffered by the applicant outweighs the public cost of allowing the applicant’s development to proceed;
 - 3. The development was economically viable at the time it was approved;
 - 4. The expenses or obligations incurred in good faith and without notice of a pending change in regulations that would prohibit the development for which vested rights are sought; and
 - 5. The applicant cannot make a reasonable return on its previous expenditures on the project by developing according to the requirements of the current LDRs.

- D. The relief granted is the minimum relief necessary to provide the applicant with a reasonable rate of return on his investment made before the effective date of the regulations that the applicant alleges have abrogated its vested rights.

Section 3-1204. Staff Review, Report and Recommendation. Staff review of the application for vested rights shall be conducted pursuant to this Division.

Section 3-1205. City Council Review and Decision. The City Council shall review the application at a quasi judicial public hearing, and shall decide whether the application should be approved, approved with conditions or denied.

Section 3-1206. Effect of Vested Rights Determination.

- A. A vested rights determination shall be set out in writing and specifically set forth the rights that have been recognized as vested.
- B. Vested rights shall be utilized within two (2) years of the date the determination is rendered. If substantial development pursuant to the vested rights determination has not begun within said time period the vested rights shall be extinguished without further notice or hearing.

Division 13. Development Agreements.

Section 3-1301. Purpose and Applicability.

The City Council may enter into development agreements in accordance with the provisions of this Division and applicable Florida law to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

Section 3-1302. Application.

All applications for a determination of a development agreement pursuant to this Division shall be made in writing upon an application form approved by the Director of Community Planning and Development, and shall be accompanied by applicable fees.

Section 3-1303. Staff Review and Report.

The Director of Community Planning and Development shall review the application for a development agreement with the Development Review Committee in accordance with the provisions of Article 3, Division 2 and shall prepare a written recommendation to the Planning Commission.

Section 3-1304. Planning Commission Review.

The Planning Commission shall conduct a public hearing and review the proposed development agreement, the recommendation of staff, and the testimony at the public hearing, the standards for review in Section 3-1306 and shall issue a recommendation to the City Council for approval or denial of the development agreement.

Section 3-1305. City Council Review.

The City Council shall conduct a public hearing on the proposed development agreement. Upon conclusion of the public hearing, the Council shall review the proposed development agreement, the recommendation of the Planning Commission, the recommendation of staff and the testimony at the public hearing. The Council shall approve, approve with modifications, or deny the proposed development agreement.

Section 3-1306. Standards of Review.

In reaching a decision as to whether or not the development agreement should be approved, approved with modifications, approved with conditions, or denied, the City Council shall determine whether the development agreement is consistent with and furthers the goals, policies and objectives of the Comprehensive Land Use Plan.

Section 3-1307. Contents of Development Agreement.

The approved development agreement shall contain, at a minimum, the following:

1. A legal description of the land subject to the development agreement.
2. The names of all persons having legal or equitable ownership of the land.
3. The duration of the development agreement, which shall not exceed ten (10) years.
4. The development uses proposed for the land, including population densities, building intensities and building height.
5. A description of the public facilities and services that will serve the development, including who shall provide such public facilities and services; the date any new public facilities and services, if needed, will be constructed; who shall bear the cost of construction of any new public facilities and services; and a schedule to assure that the public facilities and services are available concurrent with the impacts of the development. The development agreement shall provide for a cashier's check, a payment and performance bond or letter of credit in the amount of 115% of the estimated cost of the public facilities and services, to be deposited with the City to secure construction of any new public facilities and services required to be constructed by the development agreement. The development agreement shall provide that such construction shall be completed prior to the issuance of any certificate of occupancy.
6. A description of any reservation or dedication of land for public purposes.
7. A description of all local development approvals approved or needed to be approved for the development.
8. A finding that the development approvals as proposed is consistent with the Comprehensive Land Use Plan and these LDRs.
9. A description of any conditions, terms, restrictions or other requirements determined to be necessary by the City Council for the public health, safety or welfare of the citizens of the City of North Miami. Such conditions, terms, restrictions or other requirements may be supplemental to requirements in these LDRs or other ordinances of the City.
10. A statement indicating that the failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

11. The development agreement may provide, in the discretion of the City Council, that the entire development or any phase thereof be commenced or be completed within a specific period of time. The development agreement may provide for liquidated damages, the denial of future development approvals, the termination of the development agreement, or the withholding of certificates of occupancy for the failure of the developer to comply with any such deadline.
12. A statement that the burdens of the development agreement shall be binding upon, and the benefits of the development agreement shall inure to, all successors in interest to the parties to the development agreement.
13. All development agreements shall specifically state that subsequently adopted ordinances and codes of the City which are of general application not governing the development of land shall be applicable to the lands subject to the development agreement, and that such modifications are specifically anticipated in the development agreement.

Section 3-1308. Recording of Development Agreement.

No later than fourteen (14) days after the execution of a development agreement by all parties thereto, the City shall record the development agreement with the Clerk of the Circuit Court in Miami-Dade County. The applicant for a development agreement shall bear the expense of recording the development agreement. Additionally, the City shall submit a recorded copy of the development agreement to the State of Florida Department of Community Affairs no later than fourteen (14) days after the development agreement is recorded.

Section 3-1309. Effect of Decision.

- A. The codes and ordinances of the City governing the development of land subject to a development agreement in existence at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement. Upon the expiration or termination of a development agreement, all codes and ordinances of the City in existence upon the date of expiration or termination shall become applicable to the development regardless of the terms of the development agreement.
- B. The City may apply codes and ordinances adopted subsequent to the execution of a development agreement to the subject property and development only if the City Council, upon holding a public hearing, has determined that such subsequent codes and ordinances are:
 1. Not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities in the development agreement.

2. Are essential to the public health, safety or welfare, and expressly state that they shall apply to a development that is subject to a development agreement.
3. Are specifically anticipated and provided for in the development agreement.
4. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement.
5. The development agreement is based on substantially inaccurate information supplied by the developer.

Section 3-1310. Changes to Development Agreements.

A development agreement may be amended by mutual consent of the parties, provided the notice and public hearing requirements of Division 3 of this Article are followed. A party to a development agreement may request one (1) extension of the duration of the development agreement, not to exceed one (1) year from the date of expiration of the initial term of the development agreement, by submitting an application to the Community Planning and Development Department at least sixty (60) days prior to the expiration of the initial term of the agreement. The application shall address the necessity for the extension and shall demonstrate that the extension is warranted under the circumstances. The Community Planning and Development Director shall schedule the requested extension as a proposed amendment to the development agreement for public hearing before the Planning Commission in accordance with Division 3 of this Article.

Section 3-1311. Termination or Revocation of Approval.

The City Manager shall review all lands within the City subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good-faith compliance with the terms of the development agreement. The City Manager shall make an annual report to the City Council as to the results of this review. In the event the City Council finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the development agreement may be revoked or modified by the City Council upon giving at least fifteen (15) days written notice to the parties named in the development agreement. Such termination of a development agreement shall occur only after compliance with the public hearing and notice requirements of Division 3 of this Article.