

**APPENDIX A
LAND DEVELOPMENT REGULATIONS***

***Editor's note**--Printed herein are the village land development regulations, as adopted by Ordinance Number 161 on May 2, 2005. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross reference(s)--Any ordinance adopting or amending the comprehensive plan saved from repeal, § 1-10(16); environment, ch. 14; housing and structures, ch. 18; utilities, ch. 26.

State law reference(s)--Land development regulations, F.S. § 163.3202.

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ARTICLE 1. INTRODUCTION

These municipal unified land development regulations were prepared to conform to the F.S. § 163.3202. The land development regulations contained in this chapter are among the means through which the goals, objectives, and policies of the Indian Creek Village comprehensive plan are carried out. Where interpretation of these regulations is undertaken it must be done in the context of the comprehensive plan as an integrated set of facts and directives to be taken as a whole. A balance of competing factors must be evaluated and judged in order to determine the application of these rules to specific situations. Where explicit standards or limits are stated, such standards shall be adhered to, when not otherwise mitigated by other conditions. Such standards contained herein have been established by the community as consistent with the comprehensive plan.

ARTICLE 2. DEFINITIONS

The following terms are defined for use within the context of these land development regulations.

A. Interpretation of words and terms.

For the purpose of these land development regulations, certain words and terms are to be interpreted as herein defined unless specific and different meaning is clearly indicated in the context of specific use. Words used in the present tense include the future, the singular number includes the plural and the plural the singular; the word "shall" is always mandatory and not merely directory, while "may" is directory and not mandatory; the words "designed for" include the meaning "used for"; the word "structure" includes the word "building," and "building" the word "structure"; the words "area" and "district" may indicate and include the meaning of "zone."

B. Definitions.

- (1) *Urban development boundary*: Shall mean the line established by the Miami-Dade County Board of County Commissioners delineating the approved urban development boundary for Miami-Dade County, as amended by ordinance from time to time, within which the village is located.
- (2) *Accessory use*: A permitted subordinate use of the land and permitted facilities, located on the same building site, or residential site and clearly necessary and customary to the principal use.
- (3) *Accumulation*: Any one or more articles of material or litter.
- (4) *Acre, gross*: The horizontal area of land as measured in units of acres, which:
 - (a) Includes the building site, and adjacent street and alley rights-of-way (as measured from and perpendicular to the centerline of right-of-way to the right-of-way boundary line); and
 - (b) Includes onsite and adjacent easements which are derived from the parent parcel. (For easements resulting from adjacent parcels, only that portion attributable to the benefit of the subject parcel may be used.)
 - (c) Excludes limited access public road rights-of-way and waterways.
- (5) *Acre, net*: The horizontal area of land as measured in units of acres, which:
 - (a) Includes the building site.

- (b) Excludes all portions of dedicated streets, roadways, alleys, waterways, canals, lakes, or any such dedicated rights-of-way by whatever name known.
- (6) *Airspace*: That portion of a lot or other lands or bay in the village which exists above the maximum building height, and which is subject to land use and other administrative and public safety jurisdiction of the village which prohibits its use for other than approved transportation and communication purposes or minor building structures accessory to or part of a principal building or accessory building, or utility and public safety structures. Portions of such airspace may also be regulated by one or more agencies of the government of the United States of America. Where such federal jurisdiction exists, the village reserves the right to enforce its regulations where such enforcement is more restrictive and not otherwise prohibited by federal law.
- (7) *Basement elevation*: The vertical height of the lowest horizontal surface below the finished grade of the site, capable of being occupied or used for storage within the building as measured in the coordinate system of the site or as otherwise established by the village.
- (8) *Boat*: Includes every description of watercraft, ships, barges, airboats and boating structures used, or capable of being used, as a means of transportation on or under water. (Also includes the term "vessel.")
- (9) *Building*: Anything constructed, maintained, or intended to be used for the shelter, or enclosure of persons, animals, or property of any kind, the use of which demands a permanent location on the land; anything attached to something having a permanent location on the land. This definition includes tents, awnings, or vehicles, or equipment situated on private property and serving, intended to serve or prepared to serve in any way the function of a building.
- (10) *Building coverage*: The horizontal area of a lot covered by all buildings.
- (11) *Building elevation, maximum*: The same as the "building height, maximum," but expressed in feet relative to the National Geodetic Vertical Datum 1929 (NGVD).
- (12) *Building elevation, minimum*: The vertical height of the bottom or lowest portion of a building including pilings, foundations, slabs, basements and like subsurface structures, expressed in feet relative to the National Geodetic Vertical Datum 1929.
- (13) *Building envelope*: The three-dimensional shell surfaces or perimeter surfaces established by the building site setbacks, height limits, and minimum building elevation.
- (14) *Building finished floor elevation*: The vertical distance to the top of the finished floor for each level or floor within a building, as measured in the coordinate system and expressed in feet relative to the 1929 NGVD of the site.

- (15) *Building height, maximum:* The vertical distance measured from the average crown of the road along the front of the lot nearest to the subject structure, to the highest point on such structure.
- (16) *Building, lowest occupied finished floor elevation:* The vertical distance to the top of the finished floor of the lowest occupied level or floor within a building, as expressed in feet relative to the National Geodetic Vertical Datum 1929.
- (17) *Building site:* A site for the construction of a building, comprised of a specific area of ground not less than one lot in size, boundary and extent, which is or may be occupied by buildings as provided by this regulation, including the unoccupied space and yards required by this ordinance. Such site may include a lot, or a lot plus portions of other lots, provided such sites fully comply with all regulations of the village including but not limited to setbacks, yards, landscaping and building envelope.
- (18) *Bulkhead:* A structural wall and foundation system constructed adjacent to or within the water to retain or resist the lateral displacement of the water at its seaward face and retain the land behind it. For the purpose of this ordinance the bulkhead shall be regarded as forming a boundary line of Indian Creek Village from which portions of the municipality's corporate limits are measured as elsewhere established (generally 15 feet seaward from the bulkhead) and the front line of all residential lots.
- (19) *Caretaker residence:* A dwelling unit used exclusively by the owner, manager, or operator of a principal permitted use and which is located on the same building site as the principal use.
- (20) *Community facility:* The building, structure, and/or improvement over, on or under the land which was constructed and which serves the people of the village for village activities of an open nature and/or restricted for safety, security and privacy purposes.
- (21) *Construction contractor:* All persons, firms or corporations engaging in any construction work as herein defined, their subcontractors, agents and employees.
- (22) *Construction Screening:* A temporary fence with screening of sufficient opacity and height to shield neighboring residents and the public from demolition and construction sites.
- (23) *Construction work:* Includes the building and erection of any dwelling, clubhouse, or any other structure whatsoever, either intended for pleasure, recreational or residential purposes, and shall also include the repair, renovation, alteration, remodeling, removal, demolition, or razing of any buildings or structures.
- (24) *Council:* The village council of Indian Creek Village.
- (25) *Crown grade:* The topographic elevation of the average point of the crown or cross section of the street pavement abutting the front of a lot, exclusive of medians and curbing.

- (26) *Developed land*: Shall mean land upon which structures or facilities have been constructed.
- (27) *Development*: Shall mean any proposed activity or material change in the use or character of land, including, but not limited to, the placement of any structure, utility, fill, or site improvement on land, and any act which requires a building permit.
- (28) *Development order*: Any regulatory action taken in official capacity which establishes an authority for all or any portion of a project of improvement and/or renovation to proceed toward its specific conclusion. Typical development orders include, but are not limited to zoning changes taken in preparation for a specific development, building permits, final site plan approval, clearing and grubbing permits, site preparation permits, foundation permits, and water management permits.
- (29) *Development review site plan*: A set of record documents which shall be prepared by a professional architect registered in the State of Florida.
- (30) *Domestic water system*: The water and its transport, distribution, application and measurement and control system for water intended for support of interior household uses, including cleaning of facilities, sanitary waste disposal, potable water, personal hygiene, baths, showers, interior pools, fountains, and like uses other than uses limited to irrigation water uses.
- (31) *Drainage system*: The natural and manmade materials and facilities which act together to hold, filter, process, control, collect, transport, direct and otherwise manage water and its contents in solution, suspension and/or conveyed on and over the surface of the land to disperse rainwater from areas upon which it falls to areas designated for receipt of such waters.
- (32) *Dwelling unit*: Any place of abode which is suitable for permanent or transient family or individual residential use and which is complete in its accommodation for habitation. Each such dwelling unit shall include spaces which provide facilities for sleep, eating, hygiene, and activity normal to living quarters of an entire household or housekeeping unit or family. Each such dwelling unit shall be considered as single and separate for the purposes of this regulation.
- (33) *Easement*: An area designated by the parties in interest within which the owner authorizes use by another for specified purposes. Typical of such purposes is construction, operation and maintenance of public and private utilities and access across private property.
- (34) *Family*: One or more persons occupying the premises and living as a single housekeeping unit, including household, domestic and personal staffs, and considered as occupying a single dwelling unit as distinguished from groups of persons occupying a duplex, an apartment, hotel, or other such multifamily facility.

- (35) *Fence*: A barrier of posts, wire, rails, boards, metal sheets, trees, shrub hedge or other material which generally includes openings of varied sizes which may inhibit selected views or not while remaining a physical barrier and used as a boundary or means of protection or confinement or decorative element to define space.
- (36) *Flood elevation*: The height expressed in feet relative to the National Geodetic Vertical Datum 1929 to which rising water is expected to reach from a storm flooding condition resulting from an event with the statistical frequency of occurring once in a 100-year period, as established by the federal flood insurance program, FIRM maps or FEMA.
- (37) *Flood damage prevention and related definitions*: See Florida Building Code.
- (38) *Foreign material*: Waste from the use, operation, maintenance, construction or demolition of buildings and/or grounds and includes such materials as sand, stone, brick, wood, concrete, metal, plaster, concrete or plaster block, paving, roofing, pipe, shingles, lawn renovation debris, sod, dead sod, tree stumps, discarded furniture, household appliance items, and unused or unattended and abandoned trailers, boats, golfcarts, and gardeners' equipment, and like materials.
- (40) *Garage*: An accessory building attached or detached from the main building for the storage of automobiles and other vehicles used for personal purposes only, and storage of household materials.
- (41) *Garbage*: Everyday waste accumulation of organic, animal or vegetable matter.
- (42) *Golf course and country club*: The private golf course and country club within the village, the use of which is restricted through limitations of zoning, its charter and operation to members and their guests.
- (43) *Gross floor area*: Shall mean the measurement of the accumulated horizontal floor area included within the exterior face of the exterior walls enclosing interior space, cumulatively inclusive of all spaces, on all floor levels. Open porches, garages, carports, covered walkways, and loggias shall be counted as one-half of the area measured.
- (44) *Guest*: An individual or group who visit a facility at the express invitation and continued sponsorship of the resident of the facility, and without fee or charge, the duration of which visit is less than that established for residency.
- (45) *Hazardous waste*: Solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed.
- (46) *Highway*: Shall mean any public thoroughfare, including streets, and roads designed for motor vehicles.

- (47) *Historic resources:* All areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant.
- (48) *Household trash:* Everyday waste accumulation of paper, sweepings, bottles, cans or other matter of any kind, other than garbage, which is usually attendant to housekeeping.
- (49) *Impervious Area:* That portion of the building site, measured in square feet, which is incapable of being penetrated by rainwater. This shall include, but not be limited to, all structures, roof extensions, terraces, porches, driveways, sidewalks, parking areas, swimming pools and athletic courts. Impervious area shall be a maximum of 45% of the building site.
- (50) *Irrigation water system:* The water and its transport, distribution, application and measurement and control system for water intended for support of plants, lawns, landscaping, cleaning of facilities, operation of pools, fountains, and like uses other than uses limited to domestic water uses.
- (51) *Landscape area:* That portion of the building site, measured in square feet, which is reserved for the installation, operation and maintenance principally of living plant materials including trees, shrubs, hedges, ground cover, lawns, and essential and/or decorative accessories and support facilities including but not limited to ponds, fountains, irrigation, statuary, walls, lighting, electrical systems, as permitted within the village. Landscape area shall be a minimum of 55% of the building site.
- (52) *Landscape replacement plan:* Shall mean a drawing containing proposed tree removal, tree replacement planting, tree relocation and preservation areas.
- (53) *Level of service (LOS):* An indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility. Said public facilities include water supply, sanitary sewer, solid waste roadways, park and recreation and drainage.
- (54) *Litter:* All forms of household trash, garbage and refuse which, if deposited within the village other than in a container or receptacle designated for such purpose, tends to create a danger to public health, safety and welfare or adversely affecting the aesthetic appearance of the village.
- (55) *Live-aboard boat:* Is any boat which includes:
- (a) Any boat used principally as a residence;
 - (b) Any boat represented as a place of business, a professional or other commercial enterprise, or legal residence, and providing or serving on a long term basis the essential services or functions typically associated with a structure or other

improvement to real property, and, if used as a means of transportation, said use is clearly a secondary or subsidiary use; or

- (c) Any boat used by any club or any other association of whatever nature when clearly demonstrated to serve a purpose other than a means of transportation.
- (56) *Lot*: One of the specific numbered, lettered or otherwise designated parcels of land into which Indian Creek Village is subdivided, including residential parcels, golf and country club and golf course and lagoon site, road and bridge rights-of-way, mainland roadway and bridge approach sites. This definition excludes other parcels designated by means other than land subdivision, including village hall site lease, utility and drainage easements, access easements, police office and gate house site leases, and similar community facilities sites.
- (57) *Motorboat*: Is any boat which is propelled or powered by machinery which consumes energy from electrical systems or chemical or nuclear reaction and not from the wind as with sailboats, or human energy as with rowboats.
- (58) *Natural grade*: The ground elevation of a property, prior to the placement of any fill on the site.
- (59) *Nuisance*: Shall mean and include the use of any property, facilities, equipment, processes, products or compounds, or the commission of any acts or any work that causes or materially contributes to:
 - (a) Adverse environmental impact to environmentally sensitive tree resources.
 - (b) Cumulative adverse environmental impact to environmentally sensitive tree resources.
- (60) *Objective*: A specific, measurable, intermediate end that is achievable and marks progress toward a goal.
- (61) *Parcel*: A certain contiguous land area the extent of which is established by lease, easement, subdivision, or occupation.
- (62) *Pervious area*: That portion of the building site, measured in square feet, which is open to penetration of water from the surface downward into the ground, both into the topsoil as well as the deeper natural supporting subsurface rock, sands, and soils. Pervious area shall be a minimum of 55% of the building site.
- (63) *Policy*: The way in which programs and activities are conducted to achieve an identified goal.
- (64) *Potable water system*: The water and its transport, distribution, application and measurement and control system for water.

- (65) *Preservation area*: Shall mean portions of a site that are to be protected from any tree or understory removal (except as required by the department) and maintained without any development.
- (66) *Principal building*: A building which is designed and used for the main or primary use for which the land has been designated.
- (67) *Principal use*: A permitted use of the land and permitted facilities, located on the same building site, or residential site and clearly central and primary to the permitted use of such land.
- (68) *Protective barrier*: Shall mean a temporary fence or other structure built to restrict passage into an area surrounding a tree or stand of trees for the purpose of preventing any disturbance to the roots, trunk or branches of the tree or trees.
- (69) *Refuse*: Solid waste accumulations consisting of garbage and/or trash.
- (70) *Regulatory and Permitting Authority*: Shall mean all agencies which have duties to review development proposals and issue permits and that have authority superceding that of the Village pursuant to Florida Statutes. Such agencies shall include but are not limited to: Miami-Dade County a) Landscape Ordinance (Chapter 18A), b) Environmental Protection Ordinance (Chapter 24), c) Water and Sewer System Regulatory Ordinance (Chapter 32); South Florida Water Management District; Department of Community Affairs Florida Building Code; and FEMA.
- (71) *Relocated tree*: Shall mean a tree which has been transplanted pursuant to this ordinance and which continues to be viable at least one year after transplanting.
- (72) *Residence*: The act, use and structures and land used to provide a full range of support facilities and shelter for daily life activities.
- (73) *Residential site*: A building site comprised of a specific area of ground not less than one lot in size, boundary and extent, fronting both on a street and waterway, which is or may be occupied by one principal building and one accessory building, including the unoccupied space and yards required by this ordinance.
- (74) *Sailboat*: Is any boat whose principal source of propulsion is the natural wind.
- (75) *Setbacks*: Shall mean the horizontal distance as measured from the bulkhead, street right-of-way and side lot lines to any building or projection thereof within which no building or prohibited improvement may be placed.
- (76) *Single-family residence*: A detached single dwelling house for the use of one family only.
- (77) *Staff quarters*: Accommodations, which are allowable only within the primary residential structure, for household, domestic and personal staff as may be required for residential services.

- (78) *Stagnant water*: Any body of water, regardless of size, lacking flow or tidal flushing, but does not include temporary water accumulation from rain, irrigation, pumping or rising water, which is subject to gradual runoff, evaporation and drainage within a reasonable period of time, generally sufficient to avoid or prevent insect infestation, breeding, or putrefaction or like unhealthy condition.
- (79) *State of Florida conservation and recreation lands trust fund*: Shall mean a fund established under F. S. ch. 375 (as amended from time to time) for the purposes of purchasing environmentally sensitive land.
- (80) *Street frontage*: The linear horizontal extent of the lot or building site boundary line parallel to and adjacent to the street right-of-way at the rear of the lot.
- (81) *Threshold development*: Any construction, improvement, building, or erection of facilities which:
- (a) Increases the existing gross occupiable space; or
 - (b) Increases the demand for any utility or public service.
- (82) *Tree*: Shall mean a woody or fibrous perennial plant with a trunk having a minimum diameter breast height (DBH) of three inches or with an overall height of 12 or more feet.
- (83) *Village*: The municipality of Indian Creek Village including the area within its jurisdiction and within its corporate limits.
- (84) *Village manager*: The individual acting in the capacity of village manager for Indian Creek Village.
- (85) *Wall*: A barrier of opaque material, masonry, stone, plaster, lumber, plastic, sheetmetal, cast concrete, or other material, which is generally solid and used as a boundary, means of protection, confinement, decorative element to define space and/or structural support for other structures.
- (86) *Water frontage*: The linear horizontal extent of the lot or building site boundary line parallel to and adjacent to the waters of Biscayne Bay and/or contiguous waterways.
- (87) *Waterways*: Canals, lakes, rivers, and related water channels which are navigable by any occupied watercraft down to and including skiffs and canoes and like vessels. Waterways shall be measured by platted boundaries. If undefined by plat, then the less restrictive combination of criteria of: (a) the top of bank and (b) the 100-year flood level, shall be used for such boundary determination as established by a Florida registered land surveyor.

- (88) *Yard*: An open space on the same building site with any main or accessory building, unoccupied and unobstructed from the ground upward, except for approved fences, and walls.
- (89) *Yard, rear*: An area between the bulkhead line and the front line of any main or accessory building extending from one side yard to the other.
- (90) *Yard, front*: The front or street side of the property shall be considered as the area extending across full width of the lot, between the rear line of any main or accessory building and Indian Creek Drive.
- (91) *Yard, side*: An area between a main or accessory building and the side property lines of the site and extending from the rear or water side of the property to the front or street side of the property.
- (92) *Yard trash*: Every waste accumulation of lawn, grass or shrubbery or clippings and dry leaf rakings, or the like; generally free of dirt, rocks, large branches or trunk sections (larger than 36 inches in length and two inches in diameter) and bulky or noncombustible material.

(Ord. No. 87, § 2, 1-12-1993; Ord. No. 131, §§ 1, 8, 11-29-2001)

ARTICLE 3. LAND SUBDIVISION

A. Further subdivision prohibited.

The subdivision of land within the jurisdiction of Indian Creek Village is established by existing plat of Indian Creek Golf Club Island recorded in Plat Book 34, at page 33, of the public records of Dade County, Florida, and the established revisions to lots 29 and 30 thereof into lots 29, 30, and 30a, and lots "V," "W" and "X" of the amended plat of a portion of Altos Del Mar No. 4 as recorded in Plat Book 34, at page 7, of the public records of Dade County, Florida. No further subdivision of the land within the village shall be permitted. Easements or leased land parcels for limited purposes are not considered the subdivision of land by the village for purposes of these regulations, and are permitted with approval by resolution of the village council. Such easements or leased land parcels approved by the village include but are not limited to the site of the village hall; site of the village police station, office, dock, bridge guard house; and utility easements. No use of such leased or easement parcels may be made so as to increase the net number of dwelling units permitted on the island.

ARTICLE 4. LAND AND WATER USE*

*Cross reference(s)--Utilities, ch. 26.

A. Land uses.

- (1) *Districts.* Four zoning district classifications are hereby established governing the use of land within the village consistent with and in implementation of the village comprehensive plan:
 - (a) SFR--Single-family residential: Includes primary dwellings and accessory uses;
 - (b) REC--Recreational: Includes Indian Creek Country Club and related property, grounds and accessory uses;
 - (c) PBG--Public buildings and grounds: Includes all buildings and grounds for public purposes;
 - (d) OPF--Other public facilities: Includes all other facilities for public purposes.
- (2) *Official zoning map.* The areas within which these district designations apply are depicted on the Indian Creek Village official zoning map which shall be kept on file with the Village Clerk.
- (3) *Existing restrictions.* Existing restrictions of record for the subdivisions within the village shall be considered as a part of this zoning ordinance unless such restrictions are found to be unlawful or are in conflict with the provisions of the comprehensive plan and/or this ordinance, in which case such comprehensive plan and land development regulations shall control.
- (4) *SFR--Single-family residential.*
 - (a) *Permitted uses.* Single-family residential uses permitted include residential use of the site for only one family, and two accessory buildings clearly incidental to the purpose of the single-family residence. In addition to uses traditionally recognized as residential in nature, scope, and effect, permitted uses may include, private study, library, and related support facilities of phone, facsimile, private computer and similar personal communication uses. Additional permitted uses limited to accessory buildings include detached garages, cabanas, boat/pool/yard equipment storage, boat houses and emergency generators/HVAC.
 - (i) *Other uses prohibited.* Every other use of property not specifically authorized and permitted is prohibited and nothing herein shall authorize

or be construed to permit the use of any part of the premises for purposes other than single-family use.

- (ii) *No other uses permitted.* No other uses are permitted. No business or professional services may be conducted. No accessory buildings shall be allowed that are susceptible of being occupied for residential. No temporary residence shall be permitted on any lot. In no instance shall landing or storage areas for a helicopter, or other aircraft, be permitted as an accessory use.
- (iii) *Animals prohibited.* Domestic or other animals in packs, herds, litters, bevy, flocks, schools, clutches, or like groups larger than three in number are prohibited unless approved by resolution of the village.
- (iv) *Outdoor or semi-enclosed sport facilities.* Tennis courts, racquetball courts, basketball courts, or similar outdoor or semi-enclosed sports facilities shall be permitted with the following restrictions:
 - 1. *Setbacks.* The minimum setbacks for such facilities shall be:
 - a. Rear or water side of the property shall have a minimum setback of 100 feet.
 - b. Front or street side of the property shall have a minimum of 50 feet.
 - c. Side yard shall have a minimum of 25 feet.
 - 2. *Lighting.* Lighting illuminating the facilities for the purpose of nighttime use shall be restricted to the courts themselves and shall not affect neighboring properties.
 - 3. *Screening.* All such facilities shall be screened by natural vegetation so that the facility may not be seen from the roadway.

(b) *Building site design standards.*

Single-family Residential District	
Minimum Lot Sizes	80,000 sq. ft. 53,000 sq. ft. (typical lot sizes)
Setbacks Front Rear Side	50' 100' (Waterside) 25'
Minimum Water Frontage	200' Except for Lots 29, 30, 30A, 36-41 (which are established by plat)
Minimum Lot Width	Established by plat
Minimum Lot Depth	Established by plat
Min. Bldg. Sq. Ft.	5,000 sq. ft.
Maximum Height	38' (2 stories) 15' accessory bldgs.
Maximum Bldg. Lot Coverage	25% principal and accessory* bldgs. combined**
Landscaped Green/Open Space (Pervious Area)	55% (minimum)
Maximum Impervious Area (Buildings and Hardscape)	45%
Finished Floor Elevation	1' above base flood level or crown of road
Accessory Use Setbacks (Other than Emergency Generator/HVAC)*** Front Rear Side	50' 50' (Waterside) 25'
Emergency Generator/HVAC Setbacks and Spacing*** Front Rear Side	100' 100' (Waterside) 25'
Spacing from Main Bldg.	10'
Driveway Setback Side	15'

* Maximum accessory building size is 800 square feet

**Includes emergency generator/HVAC structure

*** No variance of setback or spacing allowed

- (i) *Residential site size.* A residential site size shall consist of not less than one lot with a minimum of 200 feet water frontage on the bay as platted, except only those lots which are permitted residential sites as follows:
 - 1. The lot known as 30A, being the northeasterly two-thirds of lot 30; and
 - 2. The lot known as lot 30, being the northeasterly one-third of lot 29 and the southwesterly one-third of lot 30; and
 - 3. The lot known as lot 29, being the southwesterly two-thirds of lot 29; and
 - 4. The lots known as lots 36, 37, 38, 39, 40, and 41, all of Indian Creek Golf Club Island Subdivision according to the plat thereof recorded in Plat Book 34 at page 33 of the public records of Dade County, Florida.
- (ii) *Minimum building size.* The residential principal building, together with its accessory buildings, shall have under roof not less than 5,000 square feet of gross floor area, at least 75 percent of which shall be under the roof of the main building. No principal building shall have more than two accessory buildings. Permitted uses for accessory buildings are limited to personal study, library, detached garages, cabanas, boat/pool/yard equipment storage, boat houses and emergency generators/HVAC.
- (iii) *Maximum building height.* No building shall have more than two stories above crown grade. No building shall exceed a maximum height of 38 feet above the average crown of the road. Exceptions may be permitted for minor-architectural details.
- (iv) *Minimum yard setbacks.* The minimum yard setbacks shall be as follows:
 - 1. Rear or water side of property shall have a minimum depth of 100 feet for the principal residential structure and 50 feet for accessory buildings.
 - 2. Front of property shall have a minimum depth of 50 feet for all structures.
 - 3. Side street of property shall have a minimum depth of 25 feet.
 - 4. Side yard shall have a minimum depth of 25 feet.
- (v) *Yard grades.* Exterior yard grades shall be so designed to provide drainage to areas adjacent to either the waterway or Indian Creek Drive and shall be

so planned as not to cause surplus stormwater to flow on adjoining properties in excess of naturally occurring amounts or rates of flow, nor shall any grade be established higher than abutting property without the approval of the village council and provision for a retaining wall of approved design and drainage facilities serving first the community and then the owner's welfare, health, and safety. Profile drawings of finished yard grade shall be submitted with building plans to support such approvals.

- (vi) *Trees, fences, walls and hedges.* No wall or fence along the front or sidelines of the lot shall be higher than seven feet above the approved finished grade of the main building on the property. Walls or fences shall be setback 10 feet from the front property line and shall have a landscape buffer within said setback area with landscaping of adequate size and density to shield the public in the public or private right-of-way from said wall or fence. No wall or fence along the rear or water side shall be higher than forty-two inches above the top of the bulkhead abutting the property. Canopy trees, accent trees, palm trees, and similar landscape features may exceed these height limitations when planted and maintained in compliance with an approved landscape and/or site plan. However, such trees and landscape features shall not exceed seven feet tall within 20 feet of the bulkhead abutting the property. Properties whose sidelines abut a roadway or a waterway shall be exempt from this requirement and shall be permitted to extend such trees and landscape features to the bulkhead.
- (vii) *Ornamental entrances, fountains, barbecues, flowerbins.* Ornamental entrances, fountains, barbecues, flower bins, gazebos, and other similar structures and improvements shall in no case exceed the wall, fence or hedge height limits.
- (viii) *Swimming pools.* Swimming pools may extend into the rear or water side of property areas providing that no part thereof exceed in height three feet above established yard grade. No swimming pools shall be permitted in the front or street side of the property areas.
- (ix) *Open terraces.* Open terraces extending into the yard area shall not exceed more than two feet above grade, provided a minimum of 15 feet unobstructed clear space remains at grade. Such terraces shall be permitted only where constructed and maintained in compliance with approved landscaping and/or site plans.
- (x) *Boat houses, lands, docks, piers and mooring posts.* Boat houses, boat landings, docks, piers, and mooring posts shall be constructed only in accordance with plans and specifications therefore approved by the village council and only after a Miami-Dade County DERM permit has been approved.

- (xi) *Antennas and clotheslines.* All television, cable and microwave devices, antennae and clotheslines or other apparatus where clothes are dried and other aerial equipment of any kind which are subject to the zoning authority of Miami-Dade County and of the village shall be permitted within the rear or water side of property. All such approved equipment shall be constructed and placed adjacent to, and in close proximity with, the buildings which it services and shall be concealed from ground level view by sufficient landscaping and architectural facilities and permitted only where constructed and maintained in compliance with approved landscaping and/or site plans so as not to adversely affect the health, safety, welfare, tranquility, aesthetic appearance and beauty of the property which the equipment services and all neighboring properties, and offsite roadways. The adequacy of the landscaping and architectural facilities, conforming with approved plans, shall be subject to the reasonable inspection and approval of the village manager or his representative. All such equipment which is not so landscaped shall be deemed a violation of the provisions of these regulations.
- (xii) *Emergency generator/HVAC structure.* For purposes of emergency generation of electricity a structure shall be permitted to enclose an electrical generator. Said structure shall measure no more than 18'(w) x 20' (l) x 12' (h). See Single-Family Residential District Table for setback and spacing requirements.

NOTE: Spacing and setback requirements for Emergency Generator/HVAC Structures cannot be varied.

- (xiii) All driveways shall be set back at least 15 feet from any side property line.

(5) *REC--Recreational.*

- (a) *Permitted uses.* Recreational uses shall include a country club and golf course, tennis courts, swimming pool, lagoon, and other purposes directly accessory and incidental thereto, including caretaker residences for a club manager and golf course superintendent and their families, and for no other purpose. No buildings shall be erected or maintained in said zone except a country club house and such buildings as are necessary for the use and maintenance of the golf course. No building or structure shall be erected or altered unless the plans, specifications and location thereof shall have first been approved by the village council.
- (b) *Building site design standards.*
 - (i) *Height limit.* No structure shall exceed a height equal to 90 percent of the maximum height of the existing country club building.
 - (ii) *Setback.* No structure may be erected closer than 100 feet from any property line except permanent parking, golf and sports facilities which

shall not be constructed closer than 15 feet from any property line, except landscaping, walls, ornamental elements such as lighting, statuary, public utilities and walkways. Utility easements shall be provided as necessary to accommodate public utilities necessitated by proposed improvements.

(iii) *Aesthetics.* Improvements to the country club and grounds shall be in the same style and character as the original country club. Care shall be taken to maintain the scale, and quiet elegance of the original country club. Vistas, open spaces and reserved character is to be preserved.

(c) *Non country club lands.*

(i) Recreation zone lands not accessory or incidental to a country club and golf course shall be restricted to a swimming pool and/or cabana.

(ii) No such swimming pool and cabana shall be erected or altered unless the plans, specifications and location thereof shall have first been approved by the village council.

(6) *PBG--Public buildings and grounds.*

(a) *Permitted uses.* Public buildings and grounds uses permitted include public building uses and activities of a public nature and for the public benefit including village administration, police and fire protection, village marine patrol moorings, utility services and maintenance, public meetings, and maintenance of the health, safety, welfare, and peace of the village and its residents. Public access may be restricted in those areas where police, fire, and utility operations require more secure conditions for the safety, health, welfare, and peace of the community.

(b) *Building site design standards:*

(i) *Height limit.* No structure shall exceed 30 feet in height except bridge and utility structures approved by the village.

(ii) *Setback.* No structure may be erected closer than 35 feet from any front or rear property line and 15 feet from any side property line, except for facilities on lot "V" and the bridge or its eastern approach, which may be constructed up to the common property line with the bridge and not closer than 35 feet to the street right-of-way, and except for permanent parking facilities which shall not be constructed closer than 15 feet from any property line, except landscaping, walls, security facilities, ornamental elements such as lighting, statuary, and walkways.

(iii) *Aesthetics.* Improvements to the public facilities and grounds shall be in the same style and character as the original country club. Care shall be taken to maintain the scale, and quiet elegance of the original country club. Vistas, open spaces and reserved character is to be preserved.

(7) *OPF--Other public facilities.*

- (a) *Permitted uses.* Other public facilities uses include building uses and activities of a public nature and for the public benefit including, police and fire protection, village marine patrol moorings, utility services and maintenance, regulated public passage and access, and maintenance of the health, safety, welfare, and peace of the village and its residents. Public access to bulkheads within OPF districts is prohibited, as access is reserved for village administration, police, fire, utility operation and maintenance.
- (b) *Building site design standards.*
 - (i) *Height limit.* No structure shall exceed 30 feet in height except bridge and utility structures approved by motion of the village.
 - (ii) *Setback.* No structure may be erected closer than 35 feet from any front or rear property line and 15 feet from any side property line, except for facilities on lot "X" and the bridge or its approaches, which may be constructed up to the common property line with the bridge and not closer than 35 feet to the street right-of-way, and except for permanent parking facilities which shall not be constructed closer than 15 feet from any property line, except landscaping, walls, security facilities, ornamental elements such as lighting, statuary, and walkways.
 - (iii) *Aesthetics.* Improvements to the public facilities and grounds shall be in the same style and character as the original country club. Care shall be taken to maintain the scale, and quiet elegance of the original country club. Vistas, open spaces and reserved character is to be preserved.

(8) *Maintenance.*

- (a) *Receptacles and containers required.* It shall be the duty of every person in possession, charge or control of any place in or from which foreign material, garbage, household trash, tree trimmings and yard trash is created, accumulated or produced, to provide and at all times to keep in a safe, secure and suitable place readily accessible to village authorized collection crews and agencies.
- (b) *Construction site maintenance.*
 - (i) *Site maintenance requirements.* All construction sites shall be maintained in an orderly, clean, sanitary and litter-free condition shielded from view of the public and neighbors at all times, to the greatest extent feasible. Prior to the commencement of construction (or demolition) a permanent concrete wall shall be erected to shield the neighbors and the public from dust, debris and unsightliness. Said wall along the front and side property lines shall be constructed as approved on the site plans but shall be

constructed in the initial phase of site preparation. Additionally, a landscaped buffer shall be provided as reasonably practicable and shall be maintained throughout the residential construction phase. All temporary entrance gates shall be screened.

If no wall is to be erected a dense impenetrable landscape buffer, at least six feet in height at the time of planting, shall first be installed along the side property lines. A similar landscape buffer along the front property line shall be erected but have gates with screening to allow for site access.

As an additional measure to prevent dust and unsightliness, a temporary layer of sod shall be placed on all open areas of the construction site.

Each construction site shall be provided with refuse containers adequate and sufficient in number to accommodate the accumulation of trash and debris during the interval between scheduled removal of trash and debris from the project site. The number and type of refuse containers shall be subject to the approval of the village manager.

Noxious odors are deemed to be a public nuisance and shall be avoided to the greatest extent possible. All residents adjacent to construction sites shall be notified immediately if the potential for noxious odors exists.

(ii) *Stop work order for failure to maintain site.* During the construction phase the village manager may, at his discretion, issue a written order to stop work on a construction project for failure to maintain the construction site in a reasonably clean, orderly, sanitary and litter-free condition.

(iii) *Trash and debris to be removed within five days of final inspection.* Trash and debris shall be removed from the construction site and the area properly cleaned to the satisfaction of the village manager within five workdays following completion and final inspections of the work performed under a building permit, and in all instances prior to the issuance of a final certificate of occupancy.

(c) *Litter, untended vegetation and stagnant water.* The accumulation of litter, untended vegetation or collection of stagnant water upon any parcel of land in the village, owned, leased or otherwise in the possession of the owner or tenant, or within the adjoining street rights-of-way is a public nuisance, a violation of land use regulation and is not permitted. No owner, tenant, or guest may permit or carry out such activity.

(9) *Flood damage prevention.*

(a) *Purpose.* This regulation is adopted to insure the continued availability of said flood insurance; to comply with federally imposed requirements; and to protect the public health, safety and general welfare, by minimizing flood losses in the

flood hazard areas of Indian Creek Village, and to require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction and substantial improvement; control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; control filling, grading, dredging and other development which may increase erosion or flood damage, and; to insure that potential home buyers are notified that property is in a flood area.

(b) *Variances.*

- (i) *Village manager to act upon applications.* Pursuant to Article 11. Administration and Enforcement Section C. Variance Procedure., the village manager or his designee shall have the authority and duty to consider and act upon applications for a variance from these regulations for properties located within the incorporated areas of Indian Creek Village as hereinafter set forth. The village manager or his designee is hereby advised that in granting any variances hereunder, said official shall consider the purposes of the National Flood Insurance Program as specified in Title 44, Code of Federal Regulations. Furthermore, the village manager or his designee shall consider the fact that an annual report on variances granted shall be submitted to the National Flood Insurance Administration, which report is the basis for continued availability of flood insurance to the inhabitants of the incorporated areas of Indian Creek Village, and therefore variances shall be granted with extreme caution.
- (ii) *Village manager may grant variances.* The village manager or his designee may grant variances from the terms of this regulation as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions hereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the variance will be in harmony with the general purpose and intent of this regulation and that the same is the minimum variance that will permit the reasonable use of the premises. Specific criteria for granting nonuse variances shall be further enumerated in Article 11. Administration and Enforcement Section C. Variance Procedure. Upon receipt of all necessary information including a staff report, the village manager or his designee shall review the information and render his decision, either approving, modifying or denying the request. All approvals or modifications shall not be effective until ten days after the village manager or his designee's decision is rendered. A courtesy notice containing the decision of the village manager or his designee shall be mailed to adjacent and abutting property owners of record, their tenants or their agents, that are duly noted on the application. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder.

(iii) *Application review requirements.* In passing upon all such applications, the village manager or his designee, shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this regulation, and:

1. The danger that material may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility to be located on the waterfront;
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the sites.
11. Upon consideration of the factors listed above, and the purposes of this regulation, the village manager or his designee may attach such conditions, limitations, and restrictions to any variance as he deems necessary to further the purposes of this regulation.
12. Criteria for variances:
 - (a) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the

minimum necessary in order not to destroy the historic character and design of the building;

- (b) Variances shall only be granted upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
13. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 14. The village manager or his designee shall maintain the records of all variance actions and report any variances to the Federal Emergency Management Agency upon request.
 15. Review and appeal. Review of any decision or action of the Indian Creek Building Official, Village Manager or his designee pursuant to this regulation shall be to the village council. Any person aggrieved by any decision of the Indian Creek Village Council on an appeal may seek judicial review in accordance with the Florida Rules of Appellate Procedure.
- (c) *Warning and disclaimer of liability.* The degree of flood protection required herein is considered reasonable for regulatory purposes and is based on scientific studies. Larger floods may occur. This regulation shall not be deemed to imply that areas inside or outside designated flood hazard areas will be entirely free from flood or flood damages, and shall not create liability on the part of Indian Creek Village or any officer or employee or contractor thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder.
 - (d) *Penalties for violation.* Willful violations of the provisions of this regulation or failure to comply with any requirements hereunder (including violations of conditions, restrictions, or limitations established in connection with any variances) shall constitute an offense punishable by a fine of not more than \$500.00 or imprisonment for not more than 60 days or both. Each day such violation continues shall be considered as a separate offense.

Notwithstanding the provisions of this subsection, the official responsible for the enforcement of the provisions of this regulation may secure enforcement hereof by any legal action necessary, such as application to any court for injunctive relief, revocation of any building permit issued hereunder or other appropriate means.

B. Water uses.

(1) *Boating.*

- (a) *Adoption by reference of state and county boating laws.* The laws of the State of Florida and of Miami-Dade County governing the operation and use of boats are hereby adopted and incorporated into the regulations of the village and shall pertain to all boats within the municipal boundaries of the village.
- (b) *Boats as residences.* No live-aboard boats, or boats which may be maintained or used as a place of residence, shall be allowed within the village for a period exceeding 14 days in the aggregate and not necessarily consecutively in any one year, excepting crews as may be approved by the Village Council.
- (c) *Trees or shrubbery extending over seawall.* It shall be unlawful for any owner or owners of any lot within the village to permit trees or shrubbery to extend over the seawall and bulkhead surrounding the waterfront of lots in the village so as to constitute a public nuisance, an unreasonable source of annoyance, and a violation of village land development regulations.
- (d) *Maintenance of seawalls.* It shall be unlawful for any owner or owners of any lot within the village where there exists a seawall between such lot and the water, to permit such seawall to deteriorate to the extent that it will encroach or fall into the water, or exhibit indications that such deterioration in any area of the seawall has progressed to a point where greater than 50 percent of its structural integrity has been lost.
- (e) *Seawalls, bulkheads, retaining walls, construction.* Seawall, bulkhead, retaining wall or similar installation shall be of masonry or native stone construction or other material similar to the existing similar installations. The village manager shall determine whether or not any proposed construction in this regard shall comply with the requirements of this regulation.
- (f) *Boats as hazards.* Whenever, in the opinion of the village manager the condition or the operation or use of any boat or equipment aboard any boat in the village is such as to constitute a hazard, either to the safe passage of other boats because of unsanitary, unsafe, unsound conditions created thereby, or because of dilapidation or unsightliness thereof, or a hazard to the aquatic environment within the village, or the conduct of its crew or other authorized users in violation of the Village Code, the owner of such boat shall, within three days after receiving notice of violation from the village manager, remove such boat from the village, and for

failure to do so shall be responsible to the village for all direct and indirect costs, expenses, fines, penalties, compensations for corrective work or action undertaken by it for the purpose of removing such boats in accordance with the provisions of these land development regulations.

- (g) *Speed limit on waterway.* It shall be unlawful to operate any boat in the waters of the village at a rate of speed which creates a wake; provided, however, that in no case shall such boat exceed a speed limit of six miles per hour.
- (h) *Endangering life or property with boats.* It shall be unlawful to operate any boat in any of the waters within the territorial limits of the village in such a manner as to endanger life or property.
- (i) *Discharging dangerous materials into waterway or on adjacent lands.* It shall be unlawful to discharge into or deposit upon any of the waters or lands lying within the territorial limits of the village, any thing, material or substance endangering life or property or defiling the environment, health, safety, welfare, aesthetics, and character of the village. Such prohibited materials include but are not limited to oil, fuel, prohibited pesticides and other permitted chemicals not in accord with manufacturer's directions, sanitary waste, toxic and hazardous wastes, or garbage, trash and debris.
- (j) *Hurricane procedures.* Pursuant to State of Florida regulations, the village manager will promulgate, distribute, post and enforce regulations for the use of the waters within the village in the event of a hurricane, its threat, or other act of God or natural disaster. It is recognized that a hurricane is considered to be a natural disaster or act of God and that, therefore, certain regulations, laws and ordinances may be negated by such an event and that specifically, in this case, those dealing with anchorage and moorings is not applicable in that, under such emergency conditions, an owner's or lessee's permission may be given to moor boats belonging to others to their property during a hurricane. However, in view of the proficiency of the National Hurricane Center in predicting a hurricane, the following shall apply:
 - (i) *Boats secured 24 hours prior.* Boats using the waters in the village for refuge will be securely moored not later than 24 hours prior to the officially predicted approach of a hurricane.
 - (ii) *Adequate equipment required.* Such boats will be moored only with adequate equipment and safeguards in a manner so as to eliminate or minimize damage to other boats, property or persons in the village. However, no such moorings will constitute an official approval thereof by the village and no resultant damages or liability will accrue against the village.
 - (iii) *Damage responsibility of owner.* It is clearly established that any damage to boats, property or persons following from any emergency hurricane

moorings in the waters of the village will be solely the responsibility and liability of the owner of the boat, including removal, salvage of said boat, and damage to property of others resulting from such mooring.

- (2) *Potable water and wellfield protection.* See Miami-Dade County Health and Water and Sewer Departments, DERM and South Florida Water Management District for regulations and requirements.
- (a) *Minimum level of service standards established.* The minimum acceptable level of service standards for potable water and fire protection shall be such that water is to be delivered to users at a pressure not less than 20 pounds per square inch (20 psi) and not greater than 100 psi; minimum fire flows shall be maintained at not less than 500 gpm in single-family residential areas of densities of less than 5.8 units per acre; 3,000 gpm in all other recreational areas of the country club having fire safety characteristics comparable to Metro-Dade County commercial and industrial areas; automatic fire suppression systems shall be required in all buildings of six floors or more; water quality shall meet or exceed all federal, state, and county primary standards for potable water; Metro-Dade County WASA systemwide storage capacity for finished water shall equal no less than 15 percent of the countywide average daily demand; the system shall maintain the capacity to produce and deliver 200 gallons per capita per day countywide average demand.
- (b) *Added demand to water system to be established.* All new construction causing added demand to the potable and irrigation water supply shall be required to establish through engineering analysis at the owners cost that such demand can be met with the existing water distribution system. If the current system is not capable of meeting the new demand within the established level of service standard, the owner must pay for all improvements necessary to increase the capacity of the system or reduce demand elsewhere to release existing capacity for the new site. Failing to provide the necessary capacity in place at the time demand is scheduled to begin will result in a denied building permit or withdrawal of the building permit and a denied certificate of occupancy.
- (c) *Hazardous materials and fuel tanks to be registered.* To protect groundwater recharge all hazardous materials and fuel tanks must be registered with Miami-Dade County DERM with a certified copy delivered to the village for local inventory and tracking.
- (3) *Stormwater management.* The management of stormwater is necessary to protect the population from the hazardous or undesirable conditions of: a. prolonged surface water accumulation; b. flooding; c. exposure and contamination of vital resources by adulterating substances or processes. To achieve such protection it is necessary that the village and property owners and visitors within the village adhere to the following regulations of DERM (Chapter 24, Code of Miami-Dade County) and/or Village Engineer.

(Ord. No. 87, § 3, 1-12-1993; Ord. No. 108, § 1, 9-24-1996; Ord. No. 131, §§ 2--8, 11-29-2001)

ARTICLE 5. ENVIRONMENTALLY SENSITIVE LANDS PROTECTION*

*Cross reference(s)--Environment, ch. 14.

A. Purpose; compliance with applicable regulations.

The village recognizes its interdependency upon the natural and manmade environment of Biscayne Bay. In support of efforts to nurture, protect, and promote the balanced maintenance and enhancement of the living environment, the village requires development to adhere to applicable development and building codes, including, to the extent applicable, the environmental protection regulations of Miami-Dade County for the protection of the Biscayne Bay aquatic preserve.

B. Effect of comprehensive plan.

As Indian Creek Island is essentially completely developed with respect to planned capacity and existing and planned improvements of substantial environmental impact, it is the intent and finding of the village that such conditions as are included in the comprehensive plan shall constitute an environmentally balanced design for protection of environmentally sensitive lands such as they exist and are planned to exist in the village. All improvements undertaken and completed in substantial conformity with the comprehensive plan and this unified land development code shall be considered protective of environmentally sensitive lands.

C. Environmental impact studies.

In the event the village considers the specific nature of a proposed improvement to be of unknown or suspected deleterious impact on the environment of the island and adjacent bay waters, then the village may require through its manager, that an environmental impact study be conducted by and at the sole cost to the applicant. Such study shall establish scientific data and expert analysis and opinion as to the precedent condition, and anticipated effect of the proposed development. The study shall also identify specific mitigation actions which may be taken to eliminate, offset, counter, or otherwise negate or balance the negative effects of the proposed development.

ARTICLE 6. LANDSCAPE

A. Intent.

The village intends that the design, administration, management, regulation, and stewardship of the land, air, water and related biological and aesthetic environment within its jurisdiction is to be accomplished in a balanced fashion, based upon local community understanding, judgment and knowledge of the unique requirements and characteristics of Indian Creek Village.

The Village shall conform to Chapter 18A, County Landscape Ordinance, Code of Miami-Dade County, Florida. These regulations shall be a minimum standard which shall be enforced by the village council and manager as set forth in the regulations. Additional landscaping may be required by the village in order to maintain its unique characteristics.

ARTICLE 7. SIGNAGE

In recognition of the unique nature of the village, its inhabitants, the exceptionally limited need for sign-based information, communication, and the expressed desire of the village through its elected council to maintain strict standards which regulate size, color, texture, shape, placement, and maintenance of sign facilities, without infringing upon the first amendment right to free speech nor the inhabitant's right to privacy, the following regulation of signage is established.

A. Prohibited signs; application; bond; fee.

Only permitted signs may be constructed, erected, or maintained within the village. No other signs are permitted, including but not limited to commercial business signs, billboard advertising, snipe signs, personal property sale signs, professional services signs, illuminated signs, or any other signs of a commercial, mercantile, industrial, or marketing [nature], propaganda, instructional, or other sign of any nature or intent. Permitted signs must be installed only upon application to the village, posting of a bond, approval by the village, and payment of a fee of not less than \$100.00 or 25 percent of [the value of] such sign whichever is more.

B. Permitted signs.

Permitted signs include:

- (1) *Traffic control signs.* Signs shall be permitted for the direction and control of vehicular, pedestrian, aviation and marine transport traffic. Such signs are to be located only in the street right-of-way or on or adjacent to the bulkheads as conditions dictate, unless otherwise approved by the village by motion. Such signs shall adhere to the aesthetic and design standards of the village.
- (2) *Real estate for sale signs.* As an exclusive residential community, the need for such signs is very limited. Owing to the slow speed of the vehicle, close proximity of the passenger to the property, need to protect first amendment rights and the aesthetics of discreet carefully standardized artistic design, the following design and placement standards shall be adhered to.

Size: Not larger than 40 square inches.

Format: One side only.

Materials:

Background and mount color: Pantone #556, a medium moss green.

Trim/accent/hairline border: Pantone #443, a medium moss grey.

Text colors: Pantone #344, a light moss green.

Sign material may only be smooth sealed wood, signboard or sheetmetal, primed and painted a minimum of two coats in gloss letters on matte background and gloss

foreground. Mount material must be a smooth routed wooden frame, with interior and exterior quarter round molding detail. Sign is to be mounted within the frame with no edges of the sign showing. The mount is to include two two-inch by two-inch vertical standards one each at each side end of the mount, pointed at the bottom end to facilitate penetration into the ground, and topped at the other end with a wooden ball turning not larger than three inches in diameter to terminate the standards.

Height above the ground: The top of the sign and mount shall be not more than 12 inches above the finished grade of the ground or lawn.

Content: In addition to such real estate message as the author may wish, the sign must contain at a minimum the word "Inquire" in capital and lower case four-inch-high Times Roman font text and centered horizontally, and followed below with the phone number for contact, in 2 1/2-inch-high Times Roman Italic font and centered horizontally. Any other text must be one inch high or less, in Script font, justified and at the bottom of the sign. No bold text is permitted.

Placement: The mount and sign shall be placed onsite, at the front of the property within three feet of the edge of an entrance drive to the site, generally parallel to the street and blended into the composition of the landscape of the site. The sign may only remain so long as the property is actively on the market, as evidenced by monthly report to the village manager containing copies of current advertising, and providing that the sign and property is fully maintained.

Number permitted: One per site.

- (3) *Facilities identification sign.* Each site shall bear the site number as established by the village in a size not to exceed six inches in font height. Said site number shall be visible to emergency vehicles on the adjacent public right-of-way and of a typeface that is easily read from adjacent public right-of-way. An optional location or sentimental reference name of the facility may be included in text not exceeding four inches in font height, and not exceeding six words. Names of the owner, business, occupants, or current or past residents may be displayed. No other sign may be placed on the site so as to be visible from the street or bay. The overall size, placement, aesthetic design, and engineering of the sign shall be subject to the approval of the village. Such signs may only be indirectly illuminated and only to such intensity as is minimally necessary to permit observation of the site number at night from within a vehicle. No direct lighting is permitted. No such lighting source may be seen by any other site.
- (4) *No trespass posted land signs.* In conformance with F.S. ch 810, on vacant lands upon which trespass is intended to be prohibited by the owner, the minimum number of no trespass posted land signs shall be placed at each corner and not more than 500 feet apart along the property boundary. The design standards shall be equal to that of the real estate for sale signs except that the text shall be as follows:

Content: The sign must contain the words "No Trespassing" in capital and lower case letters not smaller than 2 1/2-inch-high Times Roman font text and centered horizontally,

and followed below with the name of the owner, lessee, or occupant. No bold text is permitted.

C. Maintenance.

All permitted signs shall be maintained at all times in a complete, clean, straight (at right angles or parallel to horizontal), neat, finished condition, free of rust, corrosion, peeling coatings, and weathered, faded condition, unless an approved component of the aesthetic design.

(Ord. No. 131, § 7, 11-29-2001)

ARTICLE 8. TRAFFIC MANAGEMENT*

*Cross reference(s)--Traffic and vehicles, ch. 22.

A. Roads and rights-of-way operations and maintenance.

- (1) *[Road maintenance.]* All road rights-of way within the village as operated and maintained for private access to the private residential property and for members and invited guests of the private Indian Creek club and golf course and support service access shall continue to be operated and maintained at the current level of service provided by a two-lane undivided local street, and bridge system. No road surfaces or rights-of-way shall be used to provide open public access to bulkheads of the island. Such access shall be limited to administration, operation maintenance, safety and security of the village, and the environment.
- (2) *[Stop signs.]* The village may erect and maintain stop signs on village roads and rights-of-way which it deems to be reasonably necessary for control of vehicular traffic and for the safety of village residents and guests.

B. Parking.

- (1) *Offsite.* No offsite parking is available or permitted. Temporary parking of vehicles in direct support of maintenance, construction, repair, or other services shall be permitted only to the extent necessary to achieve the required work. All other vehicles shall be located in areas on site designated for such parking.
- (2) *Onsite.* Onsite parking is provided as designed to meet the individual site plan requirements of each site as recommended by the planning and zoning board and approved by the village council. Periodic, temporary overflow parking on designated grass areas is permitted on the grounds of the country club in a customary, and safely managed fashion.
- (3) *Right-of-way.* It shall be unlawful for anyone to park a motor vehicle of any kind or golfcart in the paved roadway of Indian Creek Drive, on the right-of-way of Indian Creek Drive, or in driveway entrances in the road right-of-way in areas adjacent to lots. Vehicles and carts may be temporarily parked on the road right-of-way during the time a party or other function is taking place in the adjacent residence and motor vehicles and carts may be parked on Indian Creek Drive and the road right-of-way in front of the village hall and in the area adjacent on the north of the village hall during office hours of the village.
- (4) *Directing to park in violation.* No property owner or other person shall request or direct anyone to park in the areas described in section 1 [subsection (3)] in violation of the ordinance.

(5) *Penalties.* Anyone violating article 8, section B, subsections (3) or (4) shall be subject to the following fines:

First offense: \$100.00.

Second offense: \$200.00.

All subsequent offenses: \$500.00 for each subsequent offense.

(Ord. No. 75, §§ 3--5, 4-3-1991; Ord. No. 122, § 1, 5-2-2000; Ord. No. 131, § 7, 11-29-2001)

ARTICLE 9. PUBLIC FACILITIES AND SERVICES CONCURRENCY*

*Cross reference(s)--Utilities, ch. 26.

The following are the minimum acceptable level of service standards to be maintained and used in planning for capital improvement needs for public facilities and services in support of the comprehensive plan and the land development regulations:

A. Traffic.

- (1) The minimum level of service standard for the village roadways is established at LOS C. The future land use element provides development at such low densities that no development order issued in conformance with the plan will generate traffic in excess of the established LOS C. Therefore, all development approved and undertaken in strict conformance with the comprehensive plan shall be presumed to have met the requirements of maintaining LOS C or better capacities of the village roadways.

B. Potable water.

- (1) *Potable water.* The minimum acceptable level of service standards for potable water and fire protection shall be such that water is to be delivered to users at a pressure not less than 20 pounds per square inch (20 psi) and not greater than 100 psi; minimum fire flows shall be maintained at not less than 500 gpm in single-family residential areas of densities of less than 5.8 units per acre; 3,000 gpm in all other recreational areas of the country club having fire safety characteristics comparable to Miami-Dade County commercial and industrial areas; automatic fire suppression systems shall be required in all buildings of six floors or more; the Miami-Dade County regional potable water treatment system shall operate with a rated capacity which is no less than two percent above the maximum day flow for the preceding year; water quality shall meet or exceed all federal, state, and county primary standards for potable water; Miami-Dade County WASA systemwide storage capacity for finished water shall equal no less than 15 percent of the county-wide average daily demand; the system shall maintain the capacity to produce and deliver 200 gallons per capita per day county-wide average demand.

Cross reference(s)--Water, § 6-51 et seq.

C. Sanitary waste.

- (1) Septic tank systems shall be properly operated and maintained at all times to provide sanitary conditions for waste disposal. The continued proper management of such systems shall ensure protection against overflow discharge, improper substance disposal, and the improper functioning of traps, lines and drainfields. This will avoid introduction of unacceptable levels of bacterial contamination into the adjacent bay waters and continue the acceptable utilization of such septic tank systems. The owner of the facility shall have the full burden to operate,

maintain, and bear the cost of damage, administration, prosecution, penalties, and burden of the failure of their sanitary waste disposal systems to function in a safe, healthful and lawful manner.

When new buildings are permitted, the septic tank systems shall meet all Miami-Dade County and State of Florida standards for design and construction, and remain accessible for periodic inspection and future monitoring.

A directory of sanitary waste disposal facilities including all septic tank and related facilities, their location, capacity, age, expansion, repair and maintenance pumping shall be maintained by the village to monitor the proper installation and maintenance of such facilities to protect the public health and the quality of adjacent bay waters. All service firms and individuals providing such installation, repair and/or maintenance shall report all such activity to the village clerk and obtain a septic tank maintenance permit prior to conducting any such work. In the event of an emergency, the village manager may postpone the obtaining of the permit until after the emergency work has been secured. The fee for such septic tank maintenance permit shall be \$ 100.00. When an owner fails to supply information required for the directory within the time provided or 30 days from the date of written notice, whichever is longer, the village manager may secure the information directly or through professionals and charge the owner all direct and indirect cost for such work.

D. Solid waste.

- (1) *Solid waste.* The village shall maintain nominal collection services by contract vendor at the following levels of service available: residential pickup is to be not less than an annual average of twice a week for household waste and once per week for trash; country club service provided by private contract service, shall continue at a level of service as agreed upon by the parties, not less than once per week. In cooperation with Miami-Dade County, the village shall provide and maintain a minimum acceptable level of service for solid waste collection at an annual average design generation rate of seven pounds per capita per day on a regional basis and an annual average of 1,000 pounds per day total residential and club trash generation, exclusive of landscape debris. Disposal facilities shall be collectively maintained at a minimum of five years' capacity to be available at the regional design generation rate of seven pounds per capita per day, with support proportioned as their interests may appear. Enforcement of such LOS standards shall be provided by the agency with the jurisdictional and operational responsibility to regulate such facilities. The village shall require evidence of service capacity for both collection and disposal as a condition of any development order issued within the village, effective upon adoption.

E. Drainage.

- (1) *Drainage.* The village shall require projects to be designed to prevent flood damage in accord with applicable law. The village shall coordinate with the South Florida Water Management District and Miami-Dade County to assure regional and local drainage and flood protection programs are maintained. The minimum acceptable level of service standards for drainage shall be protection from the degree of flooding that would result from a storm event that statistically occurs once in five years for a duration of one day.

All land on which habitable development is to occur shall be filled, or habitable structures elevated, to meet or exceed the Miami-Dade County flood criteria adopted by resolution R-951-82, as may be amended from time to time. All occupiable structures shall be constructed at, or above the minimum floor elevations 12 inches above the base 100-year flood event elevation of eight feet NGVD as specified in the federal insurance rate map and program for Indian Creek in Miami-Dade County, Florida. All new development must retain at least the first one inch of stormwater runoff onsite. Exceptions to this first inch criteria will be reviewed on a case-by-case basis for alternative design solutions to meet extraordinary site conditions and retain equivalent protection of community resources and level of service standards. The burden for the effective protection of the community shall be solely borne by the developer and/or owner of such variance site for any failure of such alternative design and its subsequent correction.

F. Concurrent provision of public facilities and services.

- (1) *Concurrency management program (CMP)*. The village hereby establishes the Concurrency Management Program (CMP) to execute the policies set forth in the comprehensive plan and assure compliance with the established level of service standards and commitments made by affected developments. The CMP provides for the regulation and administration of the issuance of development orders to be predicated upon the provision of public services consistent with the comprehensive plan and these land development regulations. The CMP provides that public facilities shall be available to serve developments which are existing, and those holding valid development orders prior to the adoption of the comprehensive plan. [The CMP includes the following:]

Concurrency management monitoring system (CMMS).

Development orders and concurrency.

Schedule of capital improvements.

- (2) *Concurrency management monitoring system (CMMS)*. A Concurrency Management Monitoring System (CMMS) is hereby established which shall enable the village to determine whether it is adhering to the adopted level of service standards and its schedule of capital improvements and to demonstrate the village's capability of monitoring the availability of public facilities and services. The CMMS consists of a series of records and logs which record the current capacity, current demand, and the added capacity and demand associated with each development order issued as it relates to the public services and facilities for potable water, sanitary waste, solid waste, and drainage.
- (3) *Development orders and concurrency*. No development order may be issued without the assurance of the provision of necessary public facilities on a timely basis concurrent with the need for such facilities to serve existing and proposed developments. Such assurance shall be by one of the following six means and conditioned as applicable by the seventh provision as follows:

- (a) The necessary facilities are under construction at the time the building permit is issued and such construction is the subject of enforceable assurance that it shall be completed and serviceable without unreasonable delay;
- (b) The necessary facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the building permit is issued;
- (c) The necessary facilities are funded and programmed for construction in year 1 of the village's adopted capital budget, or similarly adopted budget of other government agencies;
- (d) The necessary traffic circulation and/or mass transit facilities or services are programmed for construction in or before year 3 of the village's adopted budget or similarly adopted budget of other government agencies including the county's capital budget or the state agency having operational responsibility for affected facilities; in all cases, such facilities must be committed for construction in or before year 3;
- (e) The necessary facilities and services are guaranteed, in an enforceable development agreement, to be provided by the developer. An enforceable development agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380; or
- (f) Timely provision of the necessary facilities will be guaranteed by some other means or instrument providing substantially equivalent assurances; and
- (g) In all instances where a decision to issue a building permit is based on the foregoing provisions (c), (d) or (e), the following conditions shall apply:
 - (i) The necessary facilities shall not be deferred or deleted from work program or adopted one-year capital budget unless the dependent building permit expires or is rescinded prior to the issuance of a certificate of use and occupancy (CO);
 - (ii) The facilities necessary to serve a development must be contracted for construction no later than 36 months after the date that the initial certificate of use and occupancy (CO) is issued for the dependent development;
 - (iii) Construction of the necessary facilities must proceed to completion with no unreasonable delay or interruption; and
 - (iv) All essential facilities must be in place and capable of supporting the allowable occupancy of a structure as of the time and intensity of demand for such facilities.

(4) *Schedule of capital improvements.*

- (a) The comprehensive plan schedule of capital improvements shall be reviewed with respect to each development order to determine the extent to which public capital improvements may be involved. If adjustments are required by the proposed development, to the schedule of capital improvements, such changes shall be made and the cost borne by the developer and owner of the proposed development, in compliance with [subsection] (3), development orders and concurrency, above.
- (b) The village shall assure the provision of public facilities and services at no less than the established level of service standards and manage the land development process to assure public facility needs do not exceed the village's ability to adequately fund and provide or require provision of needed capital improvements.
- (c) The implementation of future land use decisions through the land development regulations and development order issuance shall be moderated by the availability of fiscal resources to permit the provision of capital facilities and related resources to maintain the level of services at adopted levels.
- (d) The capital facilities and infrastructure implications of land use and development plans will be analyzed and set forth with attention to the following:
 - (i) Safety improvements and hazard mitigation.
 - (ii) Elimination of substandard conditions.
 - (iii) Demonstrated linkage between projected growth or redevelopment and facility location.
 - (iv) Balance between supporting new development or redevelopment.
 - (v) Financial feasibility, including longterm operating costs.
 - (vi) Coordination among agencies of capital programs.
 - (vii) Contractual and/or mandatory obligations.
- (e) Development shall be required to bear an equitable share of the cost of providing public facilities and infrastructure consistent with the comprehensive plan, and the land development regulations.
 - (i) For each service the equitable share shall be based upon:
 1. The opportunity cost for the availability of such facilities and services at the maximum deliverable designed and reserved rate or

level attributable to the development including common capital improvements, operations, maintenance, without regard to level of actual consumption; and

2. The consumption cost for those facilities and services consumed directly by the development.

(ii) The intent of the equitable share burden is to provide the means for public facilities to be constructed and the cost borne by all who benefit from their use or availability for use, in such a fashion that none are granted an unfair advantage in spite of the passage of time, change in technology and the condition of the system. To that end, the bearing of such equitable share may be by:

1. Cash deposit at 105 percent of the estimated cost for such improvements;
2. Construction bond at 125 percent of estimated cost for such improvements;
3. Construction of the required improvements related to the development and cash or bond contribution at the previously stated rate for such other equitable share not accounted for by the construction;
4. Construction of all of the required improvements serving the entire community of existing and potential consumers, with a capital recapture agreement which, in the general public interest, provides for the payment by each other current and subsequent development users of the facility and/or services, an obligation to compensate the original capital contributor an amount equal to the equitable share of the then current estimated cost to provide like services and/or facilities, discounted for age, wear, and functional obsolescence and credited for prorate equitable contributions for further improvement and capital repair and/or replacement.

(Ord. No. 131, § 7, 11-29-2001)

ARTICLE 10. PERMIT PROCESS

A. Land development review.

The use and development of the lands within the village jurisdiction are regulated by the land development regulations and the comprehensive plan. No development may be undertaken unless it is in compliance with these regulations. Prior to development approval all proposed development must be reviewed to determine if and to what extent the proposed work is consistent with the land development regulations. Application for development review and the review must be completed and included in the deliberations related to the granting of any development order. Such review must include but is not limited to:

- (1) *Land use classification evaluation.* Each proposed development, renovation, restoration, or construction must be evaluated as to the intended land use and classification and found in compliance with applicable regulations.
- (2) *Concurrency evaluation.* Each proposed development, renovation, restoration, or construction must be evaluated as to the availability of all public facilities and services concurrent with the demand generated by such development in compliance with applicable regulations.

B. Florida Building Code.

The Florida Building Code, as amended is hereby adopted as the general building code of the village. Additional regulations specific to the unique conditions within the village are also contained in the land development regulations.

C. Building regulations.

- (1) *Preliminary design plans.* All proposed public and private construction, erection, reconstruction, alteration, or change in use of a building within the village shall be required to submit preliminary design plans for review and approval by the village. Such preliminary design plans shall include, at a minimum:
 - (a) The site survey which accurately describes in map diagrams and text the scaled location and extent of all:
 - (i) Property lines, easements, adjoining rights-of-way;
 - (ii) Utilities including location of mains, valves and meters for potable water, irrigation water, and fire suppression media, septic tanks and drainfields, fuel tanks above and below ground (both in use and abandoned), storm drainage system components including inlets, lines, traps, and outfalls, and lot front bulkhead outfalls of any kind;

- (iii) All improvements including walkways, buildings, pools, decks, edge of pavement, driveways, heating and air conditioning mechanical equipment;
- (iv) Topography at one-foot vertical contours, finish floor elevations relative to the flood control vertical datum then in effect;
- (v) Storage location and nature of any hazardous materials including caustic, explosive, toxic, or highly reactive chemicals, such as chlorine, propane, oxygen, ammunition, poisons, fertilizer, paints and thinners or other such materials contained on a list of such hazardous materials maintained by the village;
- (vi) Species, diameter breast height and location of trunk, crown and spread of all trees of three-inch breast caliper (diameter of the trunk at 4 1/2 feet above grade) or larger lying within the building site and within 150 feet of the proposed improvement, or as determined by the village manager if essential to vistas and aesthetics of the island.

Such survey shall be in accordance with the Florida Building Code.

D. Minimum work and hourly requirements and construction time schedule.

- (1) *Permit intent.* A permit issued shall be construed to be an authorization to proceed with the work which shall be in compliance with all village ordinances and the Florida Building Code and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of this code or any other village ordinance or the Florida Building Code; nor shall such issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans or in construction, or finding violations of this code or any other Village Hall codes or ordinances. Reviewed, stamped sets of plans shall be kept at the job site and at the Village Hall at all times. The reviewed, stamped plans at the Village Hall shall become the property of the village and the owner shall be responsible for updating the filed plans upon completion to "as built" plans.
- (2) *Effective terms of permit.* Every permit, including village approvals, issued by the building official under the provisions of this section shall expire by limitation and become null and void if work authorized by such permit is suspended or abandoned at any time after the work is commenced. Work shall be deemed to have been suspended when:
 - (a) A full complement of workmen and equipment is not present at the site;
 - (b) The progress of the work does not reflect that the contractor or his subcontractors have been involved in the work a minimum of 16 hours during any calendar week.
- (3) *Agreed maximum time schedule for completion of construction.* A maximum time is established for the completion of construction projects as set forth in the construction

schedule that follows herein. Said maximum time is a condition of all applicable permits and acceptance of the permit constitutes consent to such condition. Failure of the permit holder to pursue construction under the permit in accordance with the maximum time schedule shall be prima facie evidence that the building project has not commenced or has been suspended or abandoned. Such prima facie evidence shall be in addition to any other evidence that construction under the permit has not been commenced or has been suspended or abandoned under the permit.

MAXIMUM TIME FOR COMPLETION OF CONSTRUCTION SCHEDULE

	Type of Construction	Maximum Time Permitted
I.	Small projects: All new or remodel 3,999 square feet or less under roof	18 months
II.	Medium projects: All new or remodel 4,000 square feet to 8,999 square feet	24 months
III.	Large projects: All new or remodel 9,000 square feet or more	30 months

The Permit Extension fees, as may be amended from time to time, shall be found under the Building Department schedule of fees. The Certificate of Occupancy shall be withheld until such time as all fees are paid in full.

- (4) *Reinstatement of permits.* Before work for which the permit has for any reason become void may be subsequently commenced or recommenced, a new permit shall first be obtained. A voided permit may be reissued for the amount of the original fee, provided the proposed work conforms with all requirements, ordinances, rules and regulations effective at the time of such renewal and a permit fee surcharge of ten percent shall also be imposed.

A courtesy notice may be given by the building official to the permit holder advising the permit holder that the permit is null and void.

- (5) *Pre-work conference.* The building official shall require a pre-work conference. The minutes of such pre-work conference shall become special conditions of the permit.

- (6) *Copy of ordinance to be furnished.* At or before the pre-work conference a copy of this ordinance shall be furnished to the owner, and/or the owner's designee. Said owner, and/or the owner's designee shall sign consent to the terms of this ordinance.

(Ord. No. 88, § 1, 3-3-1994)

ARTICLE 11. ADMINISTRATION AND ENFORCEMENT*

*Cross reference(s)--Administration, ch. 2.

A. Duties of village manager.

It shall be the responsibility of the village manager or his designate to administer and enforce this ordinance. The village manager or building official, as provided by law, shall require information from any applicant for a building permit, or other use permits, that the proposed building, alteration, or use shall meet the requirements of this ordinance. Any permit issued in violation of the provisions of this ordinance shall be subject to revocation by the village manager or building official. The manager shall establish procedures necessary to administrate these regulations, including the collection of fees set forth for such efforts expended both by the village staff as well as others found necessary for such technical review as determined by the village manager.

Such fees shall include at a minimum:

- (1) A land development review application fee for receipt and establishment of a record of the project, and the initiation of the preliminary review process. Said fee shall be enumerated in the Building Department Schedule of Fees.
- (2) A land development review fee for the costs of technical support in the review, analysis, discussions, and recommendations regarding an application for development. Such fee shall be for the full amount expended on the review, with an initial amount to be collected prior to further processing of the application following the transmittal of notice from the village of 110 percent of the estimated cost for such review, and a final amount to be exchanged to adjust for any difference between the estimated amount and the actual amount expended.

B. Planning and zoning board; local planning agency.

There shall be an advisory body known as the planning and zoning board (P&ZB) and also known as the local planning agency (LPA), serving as a unified planning commission and zoning board as provided for in the village Charter, and as the advisory agency required by chapter 163, Florida Statutes for the maintenance of the comprehensive plan and the land development regulations, comprised of the members of village council. The planning and zoning board (P&ZB/LPA) shall have the responsibility to hear applications for amendments to the land development regulations, site plan reviews, variances and appeals applicable for specific proposed developments and to advise the village council as to their opinion of the merits of such requests. The P&ZB shall meet as needed at the request of the village manager and as called by the board chairman, or designate.

C. Variance Procedure.

- (1) The village shall hear applications for and grant or deny nonuse variances from setback requirements subject to certain limitations, frontage requirements, height limitations, lot size restrictions, landscape/open space requirements and other deviations from the village land development regulation provisions which have no relation to change of kind, intensity, or nature of land use of the property in question. The village council, any of its members, or staff may inspect the premises and area under consideration. The village may grant a nonuse variance upon showing by the applicant that the variance meets all the following criteria:
 - (a) That 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.
 - (b) That the special conditions and circumstances do not result from the actions of the applicant.
 - (c) That granting the variance requested will not confer on the applicant any special privilege that is denied by these LDRs to other lands, buildings or structures in the same zoning district.
 - (d) That 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 and would work unnecessary and undue hardship on the applicant.
 - (e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
 - (f) That granting the variance will not change the use to one that is not permitted in the zoning district or different from other land in the same district.
 - (g) That the granting of the variance will be in harmony with the general intent and purpose of these LDRs and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
 - (h) That the granting of the variance is appropriate for the continued preservation of a Historic landmark.
- (2) All applications for nonuse variance shall be initiated by the filing with the village manager of an application on a form prescribed by the village manager, executed by the owner of the property described in the application, or by a duly authorized agent, evidenced by a written power of attorney, if not a member of the Florida Bar. An initial nonrefundable fee for each variance requested, as enumerated in the Building Department Schedule of Fees, shall be paid to the village for the review of said application by the

Building Official. Within 60 days of the variance application the Building Official shall render a decision approving, denying or requiring modifications to said request.

- (3) If an applicant wishes to appeal the administrative decision of the Building Official a written request for review of said decision shall be made to the Village Manager. An appeal request shall include an Appeal of Building Official Decision fee, as enumerated in the Building Department Schedule of Fees, for each variance to be appealed. This fee shall cover the Village's direct and indirect costs associated with this review by the Village's Manager, Planner or other staff as deemed necessary. Within 60 days of the receipt of the appeal request and associated fees the Village Manager or designee shall render a decision either affirming the Building Official's decision or granting said variance request as submitted to the Village Manager.
- (4) If requested, appeals of the Village Manager's decision shall be heard by the village council within 60 days of an application having been filed hereunder. Said appeal shall be reviewed and transmitted to the village council, together with the written recommendations of the village manager, or his or her designee, such recommendation to become a part of the hearing file and record, and open for public inspection. No action on the application shall be taken by the village council until a public hearing has been held following at least 15 days notice of the time and place of such hearing mailed to the property owners of record, on Indian Creek Island; provided, however, that failure to mail or receive such notice shall not affect any action or proceedings taken hereunder. A fee, as enumerated in the Building Department Schedule of Fees, for each variance appeal requested shall be submitted to the village for costs associated with the public hearing process.
- (5) In granting any application for nonuse variance, the village council may prescribe any reasonable conditions, restrictions and limitations it deems desirable or necessary, in order to maintain the integrity of the village land development and the comprehensive plan and the compatibility of the property in the village in relation to the present and future use of such property.
- (6) All actions taken by the village council shall be by majority vote and resolution. In case, however, of objections to such application by the owners of record of 20 percent or more, either in person or in writing made known, of the property owners in the village, such variance shall require the favorable vote of four-fifths of all members of the village council.
- (7) The village shall record among the public records of Miami-Dade County, Florida, notice of each variance granted.
- (8) Unless the variance is used by issuance of a building permit within six months from the date of the meeting at which the variance is granted, such variance shall become null and void.

D. Law enforcement.

The chief of public safety is hereby authorized and designated to provide officers and boats, as available, for the purposes set forth in these regulations. He will coordinate the activities of the village public safety department, in connection with the provisions of these regulations as may be desirable or necessary, with yacht clubs, property owners, other public and private agencies or groups and law enforcement departments. He shall plan for safe havens as are available and, if not public property, obtain the necessary blanket permission for the use thereof from private property owners.

(Ord. No. 79, 10-29-1991; Ord. No. 131, § 7, 11-29-2001; Ord. No. 132, §§ 3, 5, 12-10-2001)

ARTICLE 12. MINIMUM PROPERTY MAINTENANCE STANDARDS

A. Single family residential.

The owner and/or operator of any single-family residential property within the corporate limits of Indian Creek Village shall comply with the following minimum property maintenance standards:

- (1) The exterior of all fences, garden walls, and similar enclosures, where exposed to the public view, shall be maintained in good condition. And shall not show evidence of deterioration, ripping, tearing, or other holes or breaks. Painted or stained surfaces shall be free of peeling paint, mold or mildew and maintained in uniform colors, void of any evidence of deterioration. All fences or walls in a continuous line shall be uniform in color.
- (2) All surfaces, including roofs, requiring painting or which are otherwise protected from the elements shall be kept painted or protected. All surfaces including roofs, shall be maintained free of mold, mildew, rust stains, loose tiles or other surfacing material, crumbling stone, brick or stucco, or other conditions reflective of deterioration or inadequate maintenance.
- (3) No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be permitted on any property or used on any property at any time as a residence, either temporary or permanently.
- (4) No obstruction to visibility at street intersections or access easement intersections, or obstruction to traffic control devices, either in the form of landscaping or shrubbery or fence or other structure, shall be permitted at any time.
- (5) No trucks containing any tools, supplies, equipment, or personal property of any kind, which items are visible from the adjacent street; commercial vehicles; or house or boat trailers shall be permitted to be parked or stored on the property, except during periods of approved construction permitted by the Village's Code Enforcement Division. This parking prohibition shall not apply to temporary parking of trucks and commercial vehicles used for pick up, delivery and the furnishing of commercial services. Except as previously provided in this sub-section, no trucks, trailers, boats or habitable motor vehicles of any nature shall be parked overnight on any property, except in an enclosed garage. These provisions shall not apply to routine cleaning, loading or unloading of motor homes or recreational vehicles. No living quarters shall be maintained when such motor home or recreational vehicle is so parked. All garage doors shall be closed at all times when not being used for ingress/egress or cleaning.

For the purposes of this section, commercial vehicles shall be defined as any vehicle:

- (a) Which bears, displays or has affixed to it any marking, sign, lettering, logo, picture, symbol, number or the like, whether alone, or in combination, which identifies or advertises a business or similar commercial venture or use;
 - (b) Designed or used for the commercial transportation of persons, goods, or things.
 - (c) Defined in F.S. ch. 316 and identified as a "trailer", "truck trailer", or "semi-trailer" (such statutory definitions being incorporated by this reference) and other vehicles commonly known as a "step van", "wrecker", "tow truck", "hearse", "ambulance", "taxicab", "well driller", and any other similar vehicle so constructed, designed or used as a tool or equipment and not as a conveyance for transporting personal items.
 - (d) Which exceeds eight feet in height from pavement to the highest point on the vehicle (including any appurtenances except antennas) and 23 feet in length from the outside of the front bumper to the outside of the rear bumper.
- (6) All landscaping, including without limitation, trees, shrubs, lawns, flower bed, walkways and ground elevations shall be maintained in a neat, orderly and attractive manner, including necessary irrigation, consistent with the general appearance of developed portions of the village. Trees and shrubs shall be regularly pruned and not to be allowed to become overgrown. Lawns shall be mowed on a regular basis as necessary by the conditions. Grass shall not be permitted to grow to a height exceeding six inches from the ground. No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any part of the property and no refuse pile or unsightly objects shall be allowed to be placed or allowed to remain on any property. Dead and/or diseased plant material shall be removed and replaced with a suitable planting in a prompt manner. No vegetation shall be permitted to extend into the vehicle, pedestrian or bicycle travel lanes, except for tree canopies, which canopies must maintain height clearance for vehicular, pedestrian and bicycle traffic.
- (7) No stagnant water shall be permitted to accumulate which would provide a nesting, breeding or feeding area for sand flies, mosquitoes or other insects.
- (8) The exterior of all premises and every structure thereon, including all parts of the structure and appurtenance where exposed to public view, shall be maintained in good condition and shall not show evidence of deterioration, weathering, discoloration, rust, ripping, tearing or other holes or breaks. All screened enclosures shall contain screens, which are properly fitted and maintained. All other surfaces shall be maintained free of broken glass, crumbling stone, brick or stucco or other conditions reflective of deterioration of inadequate maintenance.
- (9) All occupied structures must have windows and doors in good working condition and free of boards, broken or missing glass, windows or жалousies.
- (10) Garbage and solid waste containers shall be kept in a nuisance and order [odor] free condition.

- (11) No litter or untended vegetation shall be permitted which could be a danger to the public health, safety and welfare by creating a fire hazard or by providing a nesting ground for rodents, snakes, or other species of pests.
- (12) No condition shall exist which would adversely affect the aesthetic appearance and beauty of the village or which could negatively affect values of other properties in the village.

(Ord. No. 132, § 4, 12-10-2001)

ARTICLE 13. ENFORCEMENT

A. Authority.

The director of the code enforcement division of the public safety Department, or his designated representative, shall be responsible for enforcement of the Land Development Code. Specific authority is hereby granted Indian Creek Village to enter upon improved or unimproved properties for the purposes of surveying or inspecting the property to identify the condition of the property to insure the health, safety, and welfare of the public. The director, or his designated representative, shall be authorized to enter any such properties at any reasonable time during business hours, or at any such other time as may be necessary in an emergency, for the sole purpose of performing his duties under this code. The director or his designated representative shall report all violations of this Code to the village manager.

B. Notice of violation.

Upon notification by the director or his designated representative of the failure of the owner or occupant to comply with the standards set forth in this Code, the village manager shall personally inspect the properties to confirm the findings of the director or his representative. Upon confirmation of violations of this code, the village manager shall mail a written notice of violation to the owner of record of such property by certified mail at the owner's address as shown by the records of the Property Appraiser of Miami-Dade County. Such notice shall advise the owner of the existence and nature of the violation, demanding that such owner cause the violation to be remedied forthwith but no later than 15 calendar days from the receipt of such notice. Alternatively the owner may authorize the village to have such work done on behalf of the owner at the owner's sole expense for all related enforcement, abatement and restoration work and as a lien against the property. Such authorization must be in writing and include a "hold harmless" clause as approved by the village attorney. The service of such notice shall be deemed complete when deposited in the U.S. Mail, or like commercial mail carrier, with registered or certified return receipt restricted to the named party or lawful representative, with proper postage prepaid. Where both parties agree in advance, in writing, electronic facsimile may be used as lawful service of notice of violation, providing such notice is transmitted and affirmative acknowledge of its receipt by the addressee or prior approved representative is received, either electronically or in original form. In the event that notice is returned by postal authorities undelivered, the notice shall be served either by personal service upon the owner or lessee, or any employee or agent thereof, or by posting a true copy of the notice of violation upon the property in plain view from the nearest street. If there is an occupied structure or improvement on the property, a copy of said notice of violation shall be served by mail or by personal service upon the owner or lessee, or any employee or agent thereof, at the structure or improvement unless the address is the same as the address of record of the owner. If the mailing address of the owner is not known and the property is unoccupied, and the owner does not have an agent in the village, a copy of the notice of violation shall be posted in plain view upon said property; and a copy shall be posted at an appropriate location at village hall.

[B.1] Notice of violation form.

The notice of violation shall be substantially in the following form:

NOTICE OF VIOLATION 192

Date:

Name of Owner:

Address of Owner:

Address of Property:

Telephone of Owner:

Method of Service:

Our records indicate that you are the owner(s) of the property in Indian Creek Village, Miami-Dade County, Florida known as: (Address and Legal Description, Folio Number inserted here).

An inspection of this property discloses, and I have found and determined, that a public nuisance and/or unlawful condition exists thereon or in direct violation of the Village Land Development Code in that: (describe here the condition(s) which places the property in violations and reference the regulation(s) involved).

Each day for each separate violation constitutes a separate offense for which penalties shall be separately established.

You are hereby notified that unless the condition(s) above described is remedied so as to make it nonviolative of the Village Land Development Code and damages compensated or mitigated within fifteen (15) days of the date of this notice, Indian Creek Village may, at its discretion proceed to remedy this condition and the cost of the work, including advertising, reinspection, restoration, mitigation, abatement and all related direct or indirect costs related thereto as well as any fines which may be established and accumulated will be imposed as a lien on the property with priority over all other obligations against the property as permitted by law, if not otherwise paid within 27 days after receipt of billing.

If you do not agree with the above findings you may appear before the Indian Creek Village Council by submitting a request to do so. Such request shall identify which alleged violations you do not agree with. Village Council shall then schedule a hearing for the case and will advise you, in writing, at least five (5) days prior to the scheduled hearing. Requests for such a hearing shall be addressed to Indian Creek Village, 9080 Bay Drive, Indian Creek Village, Florida 33154, Attention: Village Clerk. The Village must receive such requests within the fifteen (15) days identified above. Where the violation is the third occurrence, the Village Manager will submit the case to the Village Council on the date so stated to prosecute the case as a repeat violator. Should you be found in violation as noticed as a repeat violator by the Village Council,

then a penalty may be set which shall be immediately applicable upon any reoccurrence of the same violation in the future.

INDIAN CREEK VILLAGE, FLORIDA

BY: , Village Manager.

C. Protest by property owner; determination by council.

- (1) If the property owner elects to protest the notice of violation, and appears at the designated meeting of the village council as set forth in the notice of violation, the village council shall determine whether the condition(s) or any portion of such condition(s) described in the notice of violation does or does not exist, or in the case of a repeat offender, did or did not exist; and such determination shall be final.
- (2) If the council determines that the condition(s) set forth in the notice of violation does not exist, then such notice shall be considered of no further effect and no action shall be taken by any agency of the village in regard to such notice.
- (3) If the village council shall determine that the condition described in the notice of violation does exist or in the case of a repeat violator did exist, then from the date of such determination, the owner shall have ten days to correct such condition unless village council specifies a later date. Upon failure to the owner to correct such condition on or before the date specified, the village manager shall direct the appropriate agency of the village to enter upon the property described in the notice of violation and correct such condition at the owner's expense as provided for in the regulations.

D. Abatement costs and fines; lien against property; interest rates; enforcement; penalty.

- (1) *Cost certification.* After causing the condition as described in the notice of violation to be remedied in those cases where the owner shall not voluntarily correct said condition the village manager shall certify to the village clerk the full cost of the remedial work, including advertising, reinspection, restoration, mitigation, abatement and all related direct and indirect costs related thereto as well as any fines which may be established and accumulated and a copy will be directed to the owner of the affected property, whereupon such financial liabilities shall become payable by the owner within 27 days after receipt of billing, as evidenced in like fashion as the notice of violation.
- (2) *Lien.* If the owner or owner's agent fails to make payment within said 27 days, the amount payable shall become and constitute a lien and charge upon the property, which shall bear interest at the rate equal to two points above the prime lending rate of City National Bank, compounded monthly, from date of such certification until paid, which principle and interest shall be a first and prior lien against said property superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the property in question, subject only to the lien for taxes due to the United States of America, State of Florida and Miami-Dade County, and otherwise be of the same character as a lien for special assessments. Upon failure of the owner of said property to

pay the lien, it may be enforced in the same manner as special assessment liens in favor of the village as provided by law including, without limitation, the provision of F.S. ch 173.

(3) *Penalty.*

- (a) Any person, firm or corporation who shall violate or fail to comply with any provisions of the Land Development Code shall be punished by a fine not exceeding \$500.00 for each violation, or be imprisoned for not more than 30 days or both. Each day that each violation continues to exist shall constitute a separate offense until remedial work is in progress and proceeds in continuous manner acceptable to the director. Additionally, the offending party must restore or mitigate the effects of the violation, including compensation for damages and costs incurred by the village and affected parties in interest as recognized and approved by the village council.
- (b) Where the violation is the third occurrence, the village Manager will submit the case to the village council to prosecute the case as that of a repeat violator. Should the party be found to be in violation as noticed, a repeat offender by the village council, then a penalty may be set by the council which shall be immediately applicable upon any reoccurrence of the same violation in the future, effective for such a period of time such repeat violations reoccur, and prosecutable before the council without regard to the continued existence of the violation as of the time of the council hearing.

E. Right of hearing.

The notice of violation shall, among other things, advise that the property owner or his agent or representative may appear before the village council to show the council that said condition(s) does not exist; or to show why said condition(s) is not a violation of the Land Development Code; or why said condition(s) does not constitute a danger to the public health, safety and welfare; or why said condition(s) should not be remedied by the council at the expense of the owner of said property. At said hearing, the village council, village manager and the property owner may introduce such witnesses as deemed necessary. The village council as a body, or any of its members individually, may choose to personally inspect said property prior to or as a part of, such hearing. If the owner of the affected property or any agent acting on behalf of the owner thereof fails to protest such action before village council, as described in section C above, and has failed to take corrective action as of the date specified in the of violation, the village manager may direct the appropriate agency of the village to cause the abatement of the violation by having the condition corrected, by village workforces and/or independent contractors.

(Ord. No. 132, § 5, 12-10-2001)

ARTICLE 14. INTERPRETATION; PURPOSE

In interpreting and applying the provisions of this ordinance, such provisions shall in every instance be held to be the minimum requirements adopted for the promotion of the public health, safety, peace, comfort, prosperity, morals and welfare in compliance with the village comprehensive plan.

(Ord. No. 132, § 2, 12-10-2001)

ARTICLE 15. REPEAL

All ordinances or parts of ordinances in conflict in whole or in part with the provisions of this ordinance are hereby repealed, including Ordinance 41 adopted on March 30, 1983; Ordinance No. 44 adopted on May 18, 1983; Ordinance No. 48 adopted on September 3, 1985, as amended; section 2 of Ordinance 51 (section 13 of Ordinance 41) adopted on December 28, 1984; and Ordinance No. 53 adopted July 15, 1987.

(Ord. No. 132, § 2, 12-10-2001)

ARTICLE 16. VALIDITY; SEVERABILITY

If any section, paragraph, sentence, phrase, clause or other part or provision of this ordinance be declared by the court to be invalid, the same shall be severed from and not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

(Ord. No. 132, § 2, 12-10-2001)