



AGENDA

1. ***Request to Support Senate Bill 412 Regarding Guardianship Abuse***
Future Action Required: Resolution
2. ***Land Development Regulations Amendment to Permit increased Lot Coverage in B2 Zoning District (City Manager)****
Future Action Required: Ordinance
3. ***Legislative Program And Priorities (City Manager)****
Future Action Required: Resolution
4. ***Update: Arts in Public Places Advisory Board (City Manager)****
5. ***Proposed Ordinance Regulating the Retail Sale of Dogs and Cats (Commissioner Cohen)****
6. ***Miami-Dade County League of Cities Installation Dinner – February 8, 2014 (City Manager)***
9. ***Adjournment***

*** Back-up Information Exists**

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Office of the City Clerk, 305-466-8901, not later than two days prior to such proceeding.

CITY OF AVENTURA

OFFICE OF THE CITY MANAGER

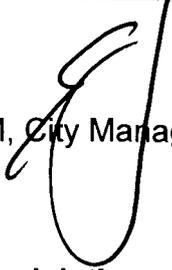
MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM, City Manager

DATE: January 8, 2014

SUBJECT: **Reform Guardianship Legislation – Senate Bill 412**



Resident, Sam Sugar, has requested to be placed on the Workshop Agenda to request the City Commission's support of Senate Bill 412.

EMS/act

CCO1829-14

CONTACT YOUR LEGISLATOR

PLEASE HELP!!



PROTECT YOUR LOVED ONES!!

Will you stand up for the lives of our Elders or Disabled? Will you be able to protect your loved ones?

Under the guise of protecting the assets of an allegedly “vulnerable person” the system of “For Profit Professional Guardianship” together with an unethical lawyer, Judge and others, ruthlessly and systematically takes control of an innocent person’s life. They strip away the victim’s precious civil rights, sell their homes, take over their bank accounts, put them away in nursing homes and even strip them of their names calling them “the ward”! These predatory “guardians” have the blessings of the Probate Court to seize wards’ assets and take them for themselves--- the equivalent of slavery.

Even if you have a legal document such as a Power of Attorney, and even if you are the Pre-need guardian for a senior citizen, or disabled loved one, his life may be in danger. A “professional predatory guardian”, with the help of a corrupt and unethical attorney and judge, will have all your legal documents REVOKED so that you will have no rights nor say so in a Court of Law in Florida!

In this illegitimate process you cannot protect or defend your loved one because he has been taken by this “guardian”, families are irrevocably destroyed. Estates and inheritances looted and plundered by this cruel form of Identity theft and Human trafficking! And this happens EVERY DAY in Florida in these deviant guardianships. If you knew how dangerous and REAL this threat is to you and your loved ones, you would be outraged! So many people snared into this abusive and exploitative system are suffering, put away into nursing homes, where isolated, sad and neglected, they die; yet there is no public outcry, nor any legal remedy! Justice is ignored and the abusive predatory guardian together with his/her corrupt attorney makes huge profits, many times hundreds of thousands of dollars, from just one of their victims; a victim whose only crime was to be elderly or disabled! Even our Veterans who served and defended us in our wars are being abused and neglected, their assets stolen from them and their families, and the Courts do nothing but look the other way!!!

Are you willing to be warned? Are you willing to learn how not to let this happen to you or a loved one? If you are wanting to prevent this potential abuse from being committed to your loved one or even to you, as you age, then join us for ACTION, PREVENTION AND PROTECTION, from GUARDIANSHIP ABUSE AND EXPLOITATION!

We are Americans Against Abusive Probate Guardianship

Find us www.AAAPG.net email help@AAAPG.net

Follow at Twitter [@helpAAAPG](https://twitter.com/helpAAAPG) Tel 855 91ELDER

How Elder Exploitation Happens

STEP ONE—"EMINENT DANGER"—THE INITIAL COURT PETITION

The Professional For Profit Guardian, who requires no state license to operate, with the assistance of attorneys, commences the process by filing an emergency petition in the probate court to become the "emergency" "temporary" guardian

The guardian oftentimes fabricates the "eminent danger" by, stating that there is a neighbor or relative or stranger who is taking advantage of the elderly person. and thereby gives the guardian and her attorneys' full control over the victim and his or her assets in no time at all.

STEP TWO—THE EXAMINING COMMITTEE

An examining committee of three medical "professionals" steps in to verify the allegation of mental incapacity. Oftentimes, the victim is administered a cocktail of psychotropic drugs to enhance the claims that he or she is "incompetent". The judge then signs an order that gives the professional guardian full and permanent legal authority over the victim's person and property.

STEP THREE—THE "FEAST" BEGINS

Property is sold for below market value and the deeds switch and switch several times. Bank accounts, annuities, stocks, and CDs are liquidated into one big guardianship account. Out of this large bank account, the guardian is expected to pay all the victim's bills, but bills oftentimes go unpaid. Jewelry is seized and valued at a fraction of its real value. Precious photos and mementoes are discarded like so much rubbish. Loved ones are prohibited from visiting creating total desperate isolation for the Ward.

HOW THE VICTIM'S MONEY IS SPENT

ATTORNEY'S FEES AND GUARDIANSHIP FEES FOR "SERVICES RENDERED TO 'BENEFIT' THE 'WARD'"

A large part of the victim's money is spent on attorney's fees and guardian's fees. As long as there is ample money in the victim's guardianship account, the guardian and her attorney cohorts will file motion upon motion after motion to the courts enriching themselves and impoverishing the victim. Bills are not paid, Medicare and Medicaid are exploited

The guardian's accounting can claim a much lower amount of liquid assets than what the victim is actually worth and then pocket the rest. They can even create fake wills.

STEP FOUR: THE MYSTERIOUS DEATHS

Once the funds have been spent, the "ward" oftentimes suddenly dies.

-OR

The "ward" dies when there is still plenty of money — if a huge probate battle can commence, thereby further enriching the attorneys and guardian with huge fees.

And it can happen to you--go to www.AAAPG.net

Contact your legislator to reform Abusive Guardianship

Support Senate Bill 412

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to guardians and wards; amending s.
3 744.108, F.S.; providing that a guardian or attorney
4 is entitled to a reasonable fee for services and costs
5 if there is a proven benefit to the ward by the
6 actions of the guardian or the attorney; revising
7 criteria for award of fees for a guardian or attorney;
8 prohibiting fee awards when a conflict of interest
9 exists; providing that fees for legal services may
10 include reasonable charges for work performed by
11 paralegals; revising requirements for petitions for
12 guardian fees and attorney fees; amending s. 744.331,
13 F.S.; deleting obsolete language; revising the
14 requirements for the composition and appointment of an
15 examining committee; providing that the attending or
16 family physician may be appointed to the committee
17 unless good cause is shown; revising the requirements
18 for examinations and reports; authorizing family
19 members and caregivers to observe and record
20 evaluations; requiring that the court dismiss a
21 petition if an examining committee member concludes
22 that the alleged incapacitated person is not
23 incapacitated; revising provisions relating to
24 suspension of a trust, trust amendment, or durable
25 power of attorney in certain circumstances; creating
26 s. 744.4461, F.S.; defining the term "undue
27 influence"; prohibiting financial exploitation of a
28 ward; providing criminal penalties; amending s.
29 932.701, F.S.; redefining the term "contraband

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30 article" to include the forfeiture of personal
 31 property used in connection with the financial
 32 exploitation of a ward; providing an effective date.

33
 34 Be It Enacted by the Legislature of the State of Florida:

35
 36 Section 1. Section 744.108, Florida Statutes, is amended to
 37 read:

38 744.108 Guardian ~~Guardian's~~ and attorney ~~attorney's~~ fees
 39 and expenses.—

40 (1) A guardian, or an attorney who has rendered services to
 41 the ward or to the guardian on the ward's behalf, is entitled to
 42 a reasonable fee for services rendered and reimbursement for
 43 costs incurred on behalf of the ward if there is a monetary
 44 benefit accrued to the ward by the actions of the guardian or
 45 attorney.

46 (2) When fees for a guardian or an attorney are submitted
 47 to the court for determination, the court shall consider the
 48 following criteria:

49 (a) The time and labor required;

50 (b) The novelty and difficulty of the questions involved
 51 and the skill required to perform the services properly;

52 ~~(c) The likelihood that the acceptance of the particular~~
 53 ~~employment will preclude other employment of the person;~~

54 (c)(d) The fee customarily charged in the locality for
 55 similar services;

56 ~~(e) The nature and value of the incapacitated person's~~
 57 ~~property, the amount of income earned by the estate, and the~~
 58 ~~responsibilities and potential liabilities assumed by the~~

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59 ~~person;~~

60 ~~(d)(f)~~ The results obtained;

61 ~~(g) The time limits imposed by the circumstances;~~

62 ~~(h) The nature and length of the relationship with the~~
 63 ~~incapacitated person; and~~

64 (e)(i) The experience, reputation, diligence, and ability
 65 of the person performing the service.

66 (3) In awarding fees to attorney guardians or attorneys,
 67 the court must clearly distinguish between fees and expenses for
 68 legal services and fees and expenses for guardian services and
 69 must have determined that no conflict of interest exists. If a
 70 conflict of interest exists, the guardian fees and attorney fees
 71 may not be awarded.

72 (4) Fees for legal services may include customary and
 73 reasonable charges for work performed by legal assistants or
 74 paralegals employed by or and working under the direction of the
 75 attorney.

76 (5) All petitions for guardian ~~guardian's~~ and attorney
 77 ~~attorney's~~ fees and expenses must be accompanied by an itemized
 78 description of the services performed for the fees and expenses
 79 sought to be recovered and an accounting of the monetary benefit
 80 accrued to the ward by the actions of the person requesting the
 81 fees and expenses.

82 (6) A petition for fees or expenses may not be approved by
 83 the court without 20 days' prior notice to the guardian and to
 84 all family members, or next of kin, of the ward who are listed
 85 in the petition to initiate the proceedings ~~the ward, unless the~~
 86 ~~ward is a minor or is totally incapacitated.~~ Other family
 87 members of the ward or next of kin not listed in the petition to

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88 initiate proceedings or other interested parties may submit
89 instructions to be placed on the notice and may provide a
90 mailing address or an e-mail address to which the notice shall
91 be sent.

92 (7) A petition for fees must ~~shall~~ include the period
93 covered and the total amount of all prior fees paid or costs
94 awarded to all parties ~~the petitioner~~ in the guardianship
95 proceeding currently before the court.

96 (8) When court proceedings are instituted to review or
97 determine guardian fees ~~a guardian's~~ or attorney ~~an attorney's~~
98 fees under subsection (2), such proceedings are part of the
99 guardianship administration process and the costs, including
100 fees for the guardian's attorney, shall be determined by the
101 court and paid from the assets of the guardianship estate unless
102 the court finds the requested compensation under subsection (2)
103 to be substantially unreasonable or ineffective in protecting
104 the assets of the ward.

105 Section 2. Paragraph (d) of subsection (2), paragraphs (a),
106 (c), (d), (e), (f), and (g) of subsection (3), subsection (4),
107 and paragraph (f) of subsection (6) of section 744.331, Florida
108 Statutes, are amended to read:

109 744.331 Procedures to determine incapacity.-

110 (2) ATTORNEY FOR THE ALLEGED INCAPACITATED PERSON.-

111 (d) ~~Effective January 1, 2007,~~ An attorney seeking to be
112 appointed by a court for incapacity and guardianship proceedings
113 must have completed a minimum of 8 hours of education in
114 guardianship. A court may waive the initial training requirement
115 for an attorney who has served as a court-appointed attorney in
116 incapacity proceedings or as an attorney of record for guardians

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117 for at least ~~not less than~~ 3 years. ~~The education requirement of~~
118 ~~this paragraph does not apply to the office of criminal conflict~~
119 ~~and civil regional counsel until July 1, 2008.~~

120 (3) EXAMINING COMMITTEE.—

121 (a) Within 5 days after a petition for determination of
122 incapacity has been filed, the court shall appoint an examining
123 committee consisting of three members. The appointments shall be
124 made from a list of persons qualified to be members of the
125 examining committee prepared and published by the chief judge of
126 the circuit. One member must be a board-certified psychiatrist
127 or other physician-specialist, and each of ~~physician.~~ the
128 remaining members must be ~~either~~ a clinical psychologist, a
129 board-certified gerontologist, an advanced registered nurse
130 practitioner, a board-certified ~~another~~ psychiatrist, or other
131 board-certified physician, ~~a registered nurse, nurse~~
132 ~~practitioner, licensed social worker, a person with an advanced~~
133 ~~degree in gerontology from an accredited institution of higher~~
134 ~~education, or other person who by knowledge, skill, experience,~~
135 ~~training, or education may, in the court's discretion, advise~~
136 ~~the court in the form of an expert opinion.~~ Each member One of
137 the examining ~~three members of the~~ committee must have
138 professional knowledge and experience in evaluating ~~of~~ the type
139 of incapacity alleged in the petition. Unless good cause is
140 shown, the attending or family physician may ~~not~~ be appointed to
141 the committee. If the attending or family physician is not
142 appointed to the committee, but available for consultation, the
143 committee must consult with the physician and review pertinent
144 findings. Each committee member must include such review in his
145 or her individual report. Members of the examining committee may

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146 not be related to or associated with one another, with the
147 petitioner, with counsel for the petitioner or the proposed
148 guardian, or with the person alleged to be totally or partially
149 incapacitated. A member may not be employed by any private or
150 governmental agency that has custody of, or furnishes, services
151 or subsidies, directly or indirectly, to the person or the
152 family of the person alleged to be incapacitated or for whom a
153 guardianship is sought. A petitioner may not serve as a member
154 of the examining committee. Members of the examining committee
155 must be able to communicate, ~~either~~ directly or through an
156 interpreter, in the language that the alleged incapacitated
157 person speaks or to communicate in a medium understandable to
158 the alleged incapacitated person if she or he is able to
159 communicate. The clerk of the court shall send notice of the
160 appointment to each person appointed no later than 3 days after
161 the court's appointment.

162 (c) Each person appointed to an examining committee must
163 file an affidavit with the court every 12 months stating that he
164 or she has completed all the required courses and holds a
165 current, valid license to practice in this state ~~or will do so~~
166 ~~no later than 4 months after his or her initial appointment.~~
167 Each year, the chief judge of the circuit must prepare a list of
168 persons qualified to be members of an examining committee.

169 (d) A member of an examining committee must complete a
170 minimum of 4 hours of initial training. The person must complete
171 2 hours of continuing education during each 2-year period after
172 the initial training. The initial training and continuing
173 education program must be developed under the supervision of the
174 Statewide Public Guardianship Office, in consultation with the

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175 Florida Conference of Circuit ~~Court~~ Judges; the Elder Law and
 176 the Real Property, Probate and Trust Law sections of The Florida
 177 Bar; the Florida State Guardianship Association; ~~and~~ the Florida
 178 Guardian Ad Litem Guardianship Foundation; and the Florida
 179 Medical Association. The court may waive the initial training
 180 requirement for a person who has served for at least ~~not less~~
 181 ~~than~~ 5 years on examining committees. If a person wishes to
 182 obtain his or her continuing education on the Internet or by
 183 watching a video course, the person must first obtain the
 184 approval of the chief judge before taking an Internet or video
 185 course.

186 (e) Each member of the examining committee shall perform a
 187 comprehensive evaluation, including a physical examination, of
 188 the alleged incapacitated person ~~examine the person~~. Each
 189 examining committee member must determine the alleged
 190 incapacitated person's ability to exercise those rights
 191 specified in s. 744.3215. In addition to the evaluation
 192 ~~examination~~, each examining committee member must have access
 193 to, and ~~may~~ consider the person's health status at the time of
 194 the evaluation, the appropriateness of the timing of the
 195 evaluation, previous evaluations ~~examinations~~ of the person,
 196 including, but not limited to, habilitation plans, school
 197 records, and psychological and psychosocial reports voluntarily
 198 offered for use by the alleged incapacitated person or his or
 199 her attorney. Each member of the examining committee must submit
 200 an independent a report within 15 days after appointment without
 201 consultation with the other committee members.

202 (f) The examination of the alleged incapacitated person
 203 must include a comprehensive evaluation ~~examination~~, a report of

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204 which shall be filed by each examining committee member as part
 205 of his or her written report. The comprehensive evaluation
 206 ~~examination~~ report should be an essential element, but not
 207 necessarily the only element, used in making a capacity and
 208 guardianship decision. The comprehensive evaluation ~~examination~~
 209 must include, ~~if indicated~~:

- 210 1. A physical examination, including neurologic findings;
- 211 2. A comprehensive, objective mental health examination;
- 212 ~~and~~
- 213 3. A functional assessment; and
- 214 4. A neurological imaging study, if required.

215
 216 If any aspect ~~of these three aspects~~ of the evaluation
 217 ~~examination is not indicated or~~ cannot be accomplished for any
 218 reason, the written report must explain the reasons for its
 219 omission, or the report is null and void.

220 (g) Each committee member's written report must include:

- 221 1. To the extent possible, a clinical diagnosis and,
 222 prognosis for recovery, ~~and recommended course of treatment.~~
- 223 2. An evaluation of the alleged incapacitated person's
 224 ability to retain his or her ~~her or his~~ rights, including,
 225 without limitation, the rights to marry, + vote, + contract, +
 226 manage or dispose of property, + have a driver ~~driver's~~ license, +
 227 determine his or her ~~her or his~~ residence, + consent to medical
 228 treatment, + and make decisions affecting his or her ~~her or his~~
 229 social environment.
- 230 3. The results of the comprehensive evaluation ~~examination~~
 231 and the committee member's assessment of information provided by
 232 the attending or family physician or the alleged incapacitated

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233 person's attorney, if any.

234 4. A description of any matters with respect to which the
235 person lacks the capacity to exercise rights, the extent and
236 expected duration of that incapacity, and the objective factual
237 basis for the determination that the person lacks that capacity.

238 5. The names of all persons present during the time the
239 committee member conducted his or her evaluation ~~examination~~. If
240 a person other than the person who is the subject of the
241 evaluation ~~examination~~ supplies answers posed to the alleged
242 incapacitated person, the report must include the response and
243 the name of the person supplying the answer. Absent objection
244 from the alleged incapacitated person, a family member or
245 caregiver may not be barred from observing the evaluation. Video
246 or other recordings of the evaluation may be made by family
247 members and interested parties without limitation.

248 6. The signature of the committee member and the date and
249 time the member conducted his or her evaluation ~~examination~~.

250 (4) RULING ON DISMISSAL OF PETITION.—If any ~~a majority~~ of
251 the examining committee members concludes ~~conclude~~ that the
252 alleged incapacitated person is not incapacitated in any
253 respect, the court shall dismiss the petition.

254 (6) ORDER DETERMINING INCAPACITY.—If, after making findings
255 of fact on the basis of clear and convincing evidence, the court
256 finds that a person is incapacitated with respect to the
257 exercise of a particular right, or all rights, the court shall
258 enter a written order determining such incapacity. A person is
259 determined to be incapacitated only with respect to those rights
260 specified in the order.

261 (f) Upon the filing of a verified sworn statement by an

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262 interested person stating:

263 1. That he or she has sworn evidence ~~a good faith belief~~
264 that the alleged incapacitated person's trust, trust amendment,
265 or durable power of attorney is invalid; ~~and~~

266 2. A reasonable factual basis for that belief; and

267 3. That there exists an imminent danger of physical or
268 financial harm to the alleged incapacitated person and that such
269 person has reported the danger to the Department of Children and
270 Families or the state attorney,

271

272 the trust, trust amendment, or durable power of attorney is
273 suspended until such time as a court hearing can be held, at
274 which time such documents may be reinstated at the discretion of
275 the court ~~shall not be deemed to be an alternative to the~~
276 ~~appointment of a guardian.~~ The appointment of a guardian does
277 not limit the court's power to determine that certain authority
278 granted by a durable power of attorney remains ~~is to remain~~
279 exercisable by the attorney in fact.

280 Section 3. Section 744.4461, Florida Statutes, is created
281 to read:

282 744.4461 Financial exploitation of wards; penalties.—

283 (1) As used in this section, the term "undue influence"
284 means domination, intimidation, force, coercion, or legal
285 manipulation exercised by another person to the extent that a
286 ward is harmed.

287 (2) A guardian or his or her agent or an attorney or his or
288 her agent may not knowingly, from the date the incapacity is
289 adjudicated, dissipate, use, obtain, convert, or take control of
290 or endeavor to dissipate, use, obtain, convert, or take control

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291 of any of a ward's property by improper billing, fraud upon the
292 court, deception, intimidation, undue influence, coercion,
293 harassment, duress, or misrepresentation with the intent or
294 result of permanently depriving the ward of the use, benefit, or
295 possession of the property.

296 (3) A person who violates this section commits a felony of
297 the third degree, punishable as provided in s. 775.082, s.
298 775.083, or s. 775.084.

299 Section 4. Paragraph (a) of subsection (2) of section
300 932.701, Florida Statutes, is amended to read:

301 932.701 Short title; definitions.-

302 (2) As used in the Florida Contraband Forfeiture Act:

303 (a) "Contraband article" means:

304 1. Any controlled substance as defined in chapter 893 or
305 any substance, device, paraphernalia, or currency or other means
306 of exchange that was used, was attempted to be used, or was
307 intended to be used in violation of ~~any provision of~~ chapter
308 893, if the totality of the facts presented by the state is
309 clearly sufficient to meet the state's burden of establishing
310 probable cause to believe that a nexus exists between the
311 article seized and the narcotics activity, regardless of whether
312 ~~or not~~ the use of the contraband article can be traced to a
313 specific narcotics transaction.

314 2. Any gambling paraphernalia, lottery tickets, money,
315 currency, or other means of exchange that ~~which~~ was used or,
316 attempted, or intended to be used in violation of the gambling
317 laws of the state.

318 3. Any ~~equipment,~~ liquid or solid equipment that, ~~which~~ was
319 or is being used or, ~~is being used,~~ was attempted ~~to be used,~~ or

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320 intended to be used in violation of the beverage or tobacco laws
321 of the state.

322 4. Any motor fuel upon which the motor fuel tax has not
323 been paid as required by law.

324 5. Any personal property, including, but not limited to,
325 any vessel, aircraft, item, object, tool, substance, device,
326 weapon, machine, vehicle of any kind, money, securities, books,
327 records, research, negotiable instruments, or currency, which
328 was used or was attempted to be used as an instrumentality in
329 the commission of, or in aiding or abetting in the commission
330 of, any felony, regardless of whether ~~or not~~ comprising an
331 element of the felony, or which is acquired by proceeds obtained
332 as a result of a violation of the Florida Contraband Forfeiture
333 Act.

334 6. Any real property, including any right, title,
335 leasehold, or other interest in the whole of any lot or tract of
336 land, which was or is being used, ~~is being used,~~ or was
337 attempted to be used as an instrumentality in the commission of,
338 or in aiding or abetting in the commission of, any felony, or
339 which is acquired by proceeds obtained as a result of a
340 violation of the Florida Contraband Forfeiture Act.

341 7. Any personal property, including, but not limited to,
342 equipment, money, securities, books, records, research,
343 negotiable instruments, currency, or any vessel, aircraft, item,
344 object, tool, substance, device, weapon, machine, or vehicle of
345 any kind in the possession of or belonging to any person who
346 takes aquaculture products in violation of s. 812.014(2)(c).

347 8. Any motor vehicle offered for sale in violation of s.
348 320.28.

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349 9. Any motor vehicle used during the course of committing
350 an offense in violation of s. 322.34(9)(a).

351 10. Any photograph, film, or other recorded image,
352 including an image recorded on videotape, a compact disc,
353 digital tape, or fixed disk, which ~~that~~ is recorded in violation
354 of s. 810.145 and ~~is~~ possessed for the purpose of amusement,
355 entertainment, sexual arousal, gratification, or profit, or for
356 the purpose of degrading or abusing another person.

357 11. Any real property, including any right, title,
358 leasehold, or other interest in the whole of any lot or tract of
359 land, which is acquired by proceeds obtained as a result of
360 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
361 property, including, but not limited to, equipment, money,
362 securities, books, records, research, negotiable instruments, or
363 currency; or any vessel, aircraft, item, object, tool,
364 substance, device, weapon, machine, or vehicle of any kind in
365 the possession of or belonging to any person which is acquired
366 by proceeds obtained as a result of Medicaid fraud under s.
367 409.920 or s. 409.9201.

368 12. Any personal property, including, but not limited to,
369 any vehicle, item, object, tool, device, weapon, machine, money,
370 security, book, or record, which ~~that~~ is used or attempted to be
371 used as an instrumentality in the commission of, or in aiding
372 and abetting in the commission of, a person's third or
373 subsequent violation of s. 509.144, whether or not comprising an
374 element of the offense.

375 13. Any vehicle, machinery, equipment, or other item of
376 personal property used in connection with the financial
377 exploitation of a ward in violation of s. 744.4461.

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Section 5. This act shall take effect October 1, 2014.

CITY OF AVENTURA

COMMUNITY DEVELOPMENT DEPARTMENT

MEMORANDUM

TO: City Commission

FROM: Eric M. Soroka, ICMA-CM
City Manager 

BY: Joanne Carr, AICP
Community Development Director 

DATE: January 8, 2014

SUBJECT: Proposal to permit increased lot coverage for the Aventura Mall

January 16, 2014 City Commission Workshop

I. THE REQUEST

Turnberry Associates has submitted an application for administrative site plan review to expand the Aventura Mall for a new anchor tenant, a new two-story retail approach corridor to the anchor and relocation of the food court. As part of the expansion, Turnberry Associates proposes to construct a mass transit terminal in the first floor of a new parking structure, which will accommodate City and County and other governmental entities' buses, taxis and other private transit vehicles.

In order to build the expansion and parking structure and to accommodate future development on Mall property, Turnberry Associates has requested an amendment to the B2, Community Business District, in the City's Land Development Regulations to increase maximum lot coverage from 40% to 45%.

The proposed amendment to the B2 zoning district is as follows:

Section 31-144(c). Community Business (B2) District.

"c) *Community Business (B2) District.* This district is intended primarily to provide for general commercial activity for a wide range of goods and services to the entire community and sub region. Such businesses generally require locations convenient for both vehicular and pedestrian traffic and would be expected to have orientation toward and direct access to arterial roadways.

...

Site development standards.

a. *Floor area ratio and lot coverage and minimum landscaped open space requirements:*

1. For all buildings: Any structure parking serving the primary use on the site shall be incorporated into the building envelope and shall be compatibly designed. Such parking structure shall comply with all minimum setback and buffer yard requirements.

2. The floor area ratio shall be 0.40 at one story and shall be increased by 0.11 for each additional story. Structure parking shall not count as part of the floor area, but shall be counted in computing building height. The total lot coverage permitted for all buildings on the site shall not exceed 40 percent of the total lot area, except as provided in Subsection 4. below. The floor area ratio shall not exceed 2.0 for all buildings in this district in conformance with the comprehensive plan.

3. For shopping center buildings with ~~other~~ more than 1,000,000 square feet of gross leasable area that provide public amenities including, but not limited to, public plazas, fountains or other water features, seating areas and recreational walking areas and that do not exceed five stories in height, the minimum landscaped open space shall be 15 percent of the total lot area. Said open space shall be extensively landscaped with grass, trees and shrubbery in accordance with a landscape plan to be approved by the City Manager. The nonleasable areas within enclosed or nonenclosed malls which are landscaped with grass, trees and/or shrubbery, water areas therein, and areas therein with permanent art display areas may be used as part of the required landscaped open space provided such areas do not exceed ten percent of the required landscaped open space.

4. The maximum lot coverage shall not exceed 45% of the total lot area for shopping center buildings with more than 1,000,000 square feet of gross leaseable area and that do not exceed five stories in height and that provide a centralized multi-modal transportation facility which is enclosed within a parking structure, and which may be used by: City transit providers, County transit providers, any other governmental entities requesting use of the facility and private transit providers."

...

Analysis of the Request

After construction of the last expansion of the Aventura Mall for the Nordstrom anchor and retail approach wing, the current lot coverage is 36% of the total lot area. This new expansion proposal will increase lot coverage to 44%. The applicant advises that other proposed future development may increase lot coverage up to a maximum of 45%.

The B2 zoning district allows a maximum height of 12 stories or 120 feet. Any expansion of the Aventura Mall could maintain the 40% lot coverage maximum by building vertically. The increased lot coverage is requested to keep the low profile of the regional mall, which is currently four stories at its highest, and to construct a new parking structure that will contain the multi-modal transit facility.

Generally, lot coverage maximums are included in development codes to ensure that open space is provided and also to ensure that proper drainage is provided and maintained. Section 31-144(c) of the Code includes "all buildings on site" in lot coverage calculation. This includes the primary building and any accessory buildings, such as parking structures, but does not include surface parking areas.

In the case of an enclosed regional mall, traditional outdoor open space would not be used by the public in this type of commercial environment. What is desirable for public comfort in a regional mall are interior public plazas with seating areas to meet others or to rest, water features, pedestrian corridors that can also function as recreational walking areas and other public amenities such as art displays. This was recognized by the City Commission in 2005 through passage of Ordinance No. 2005-15, which allows a minimum of 15% open space for regional malls, where up to 40% was required by Code at that time, provided that the aforementioned public amenities are in place. The Aventura Mall is complying with this open space/amenity provision.

The consulting engineer for the Aventura Mall has confirmed that an increase of 5% in permitted lot coverage will not affect the ability to provide and maintain proper drainage. The drainage structures and retention ponds are currently functioning as intended. Any development application for expansion will include drainage plans to upgrade and improve, as necessary, any components of the drainage system. Those drainage plans will be reviewed by the City's Consultants as part of the site plan review process.

The request is a policy decision as to whether the continued low height of the mall building and the construction of a centralized multi-modal transit facility on the ground floor of a new parking structure is a benefit to the community that warrants the requested increase in lot coverage. The amendment would require an application for amendment to the text of the Land Development Regulations. That application would be considered by the City Commission through the public hearing process and would be evaluated using the criteria in Section 31-77 for amendment to the text of the Land Development Regulations.

CITY OF AVENTURA LEGISLATIVE PROGRAM AND PRIORITIES



2014

**Mayor Susan Gottlieb
Commissioner Enbar Cohen
Commissioner Teri Holzberg
Commissioner Billy Joel
Commissioner Michael Stern
Commissioner Howard Weinberg
Commissioner Luz Urbaz Weinberg
City Manager Eric M. Soroka
City Clerk Teresa M. Soroka
City Attorney Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.**

**CITY OF AVENTURA
LEGISLATIVE PROGRAMS AND PRIORITIES
2014**

This document is intended to provide direction to the City Manager, City Attorney and Legislative Lobbyist as to the official City position regarding issues and pending legislation which would affect the operation of local government. This document further provides priorities for the acquisition of supplemental funding (grants) for various programs.

The City of Aventura will endorse and support legislation that will:

1. Provide a dedicated revenue source for Charter School capital improvements at the same levels provided to the local school boards.
2. Increase or maintain educational funding levels for Miami-Dade County public schools.
3. Amend State law allowing a more economical method of advertising for a public hearing relating to Comprehensive Plan adoption and/ or amendments.
4. Adopt the 2014 Policy Statement of the Florida League of Cities.
5. Enact a law enabling cities to prohibit smoking at city sponsored events or activities and/ or at city parks and facilities.
6. On a state-wide level, ban the use of handheld phones by persons operating motor vehicles, but allowing hands free phone devices.
7. Provide a dedicated revenue source to cities that are located within 1 mile of a facility that houses legalized gambling to offset police and road impact costs to the community.
8. Preserve municipal authority for red light camera safety programs.
9. Amend Safe Harbor provisions (Fla. Stat. 718.116(1)(b) condos and 720.3085(2)(c) HOAs) to increase the liability of qualified lending institutions to the lesser of twenty four months of past due assessments or two percent of the original mortgage in the event of a foreclosure.
10. Seek an amendment to Sec. 790.065, F.S., to enable municipal police departments to decline to release a firearm to a person who has been Baker Acted, in the absence of a court order entered in a replevin case. The law presently restricts firearms purchases and access to concealed weapons permits by certain Baker Acted persons, but does not bar their possession of firearms.

Art in Public Places Guidelines

MISSION

The mission of the Arts in Public Places Advisory Board (APPAB) is to assist the City in identifying, selecting and/or obtaining works of art for display in City owned and/ or operated parks, buildings and facilities, in order to further enhance the diverse array of cultural and educational opportunities which are available within the City. The recommendation of the (APPAB) shall be advisory to the City Commission.

PURPOSE

The purpose of this policy is to outline guidelines to be utilized by the (APPAB) in determining where public art should be displayed, the process for accepting art either donated or gifted and commissioning forms of art to be displayed in public. No work of art shall become the property of the City by purchase, gift or otherwise, unless such work of art, shall first have been submitted to and approved by the APPAB and the City Commission.

PUBLIC PLACES

The term “public places “means any place owned by the City including the following:

- Aventura Government Center
- Aventura Arts & Cultural Center
- Aventura Community Recreation Center
- All City owned parks

WORK OF ART

The term “work of art” means but is not limited to paintings, sculptures, engravings, carvings, collages, mosaics, statues, photographs, drawings and landscape design.

PRIORITIZATION OF PUBLIC ART PROJECTS

The APPAB will identify project priorities allowing for flexibility, creativity and a connection to the ever changing community values. The project priorities will be voted on by the Board and then be presented to the City Commission.

ARTWORK SELECTION CRITERIA

To make the selection process more objective, the following guidelines should be followed when selecting a piece of art:

1. The proposed artwork should be identified as one of the project priorities;
2. The proposed art should meet art selection criteria;
3. The proposed art should meet the intent of the project description as appropriate to the Call to Artist/Request for Proposal process;
4. A preference may be given for artists from or working in local South Florida, but in no way should this selection preference be construed to preclude proposed art from artists outside of this area;
5. To better represent the character of the community and appeal to a wide range of viewers, the APPAB shall strive for a diverse collection. Diversity includes:
 - a. Materials
 - b. Style
 - c. Artists
 - d. Form
 - e. Color
 - f. Content/Subject
6. The APPAB should consider the permanence of the artwork being proposed both physically and conceptually. Permanence includes:
 - a. Maintenance
 - b. Resistance to vandalism
 - c. Safety concerns
 - d. Timelessness
7. Proposed art should be compatible with the selected site location. Basic elements include:
 - a. Scale
 - b. Materials
 - c. Existing Landscaping/Proposed Landscaping
 - d. Existing Lighting/Proposed Lighting

PROJECT TYPES

There are three processes in which artwork can be selected:

1. Call to Artists/Request for Proposal
2. Direct Purchase
3. Private Donation

Gifts Policy

The City will be under no obligation to accept any public artwork gift offered. Artwork being gifted or donated shall be identified as one of the project priorities developed by the APPAB. Approved donations, gifts or bequests are deemed to be unconditional. All public artworks considered should be in good condition; a conservator will be consulted if required to assess the condition of the artwork proposed to be gifted. All donations, gifts or bequests accepted by the City are to be accompanied by relevant documentation stating the acceptance of the gift and outlining the relevant parties. The City will, where appropriate, gain clear title and copyright in the artwork gifted.

CITY OF AVENTURA
OFFICE OF THE CITY COMMISSION

MEMORANDUM

TO: City Commission

FROM: Commissioner Enbar Cohen

DATE: January 7, 2013

SUBJECT: **Proposed Ordinance Regulating the Sale of Dogs and Cats**

I would like to propose an Ordinance regulating the sale of dogs and cats in the City of Aventura in order to promote community awareness of animal welfare and to encourage pet consumers to adopt dogs and cats from shelters, thereby saving the animals' lives and reducing the cost to the public of sheltering animals. Attached is a sample Ordinance drafted by the City of Pinecrest.

Please place this item on the next Workshop Agenda.

Thank you.

EC/tms



ORDINANCE NO. 2013-11

**AN ORDINANCE OF THE VILLAGE OF ██████████
FLORIDA, AMENDING CHAPTER 16, ENTITLED
"OFFENSES AND MISCELLANEOUS PROVISIONS",
BY CREATING A NEW ARTICLE ENTITLED "RETAIL
SALE OF DOGS AND CATS"; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE; AND PROVIDING FOR EFFECTIVE DATE.**

WHEREAS, existing state and federal laws regulate dog and cat breeders, as well as pet stores that sell dogs and cats including the Animal Welfare Act ("AWA") (7 U.S.C. Section 2131 et seq.); and

WHEREAS, the Animal Welfare Act requires, among other things, the licensing of certain breeders of dogs and cats and that these breeders maintain minimum health, safety and welfare standards for animals in their care with enforcement of these requirements by the United States Department of Agriculture ("USDA"); and

WHEREAS, according to The Humane Society of the United States, American consumers purchase dogs and cats from pet stores that the consumers believe to be healthy and genetically sound, but in reality, the animals often face an array of health problems including communicable diseases or genetic disorders that present immediately after sale or that do not surface until several years later, all of which lead to costly veterinary bills and distress to consumers; and

WHEREAS, according to The Humane Society of the United States, hundreds of thousands of dogs and cats in the United States have been housed and bred at substandard breeding facilities known as "puppy mills" or "kitten factories," that mass-produce animals for sale to the public; and many of these animals are sold at retail in pet stores; and

WHEREAS, according to USDA inspection reports, some additional documented problems found at puppy mills include: (1) sanitation problems leading to infectious disease; (2) large numbers of animals overcrowded in cages; (3) lack of proper veterinary care for severe illnesses and injuries; (4) lack of protection from harsh weather conditions; and (5) lack of adequate food and water; and

WHEREAS, while "puppy mill" puppies and "kitten factory" kittens are being sold in pet stores, many dogs and cats are euthanized by Miami-Dade County's Animal Control Services; and

WHEREAS, across the country, thousands of independent pet stores as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats; many of these stores collaborate with local animal sheltering and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

WHEREAS, while the Village Council recognizes that not all dogs and cats retailed in pet stores are products of inhumane breeding conditions and would not classify every commercial breeder selling dogs or cats to pet stores as a "puppy mill" or "kitten factory," it is the Village Council's belief that puppy mills and kitten factories continue to exist in part because of public demand and the sale of dogs and cats in pet stores; and

WHEREAS, the Village Council believes that eliminating the retail sale of dogs and cats in pet stores in the Village will promote community awareness of animal welfare and, in turn, will foster a more humane environment as well as encourage pet consumers to adopt dogs and cats from shelters, thereby saving animals' lives and reducing the cost to the public of sheltering animals;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF PINECREST, FLORIDA:

Section 1. The forgoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby rendered a specific part of this Ordinance upon adoption and shall serve as its legislative history.

Section 2. That Chapter 16 of the Village's Code of Ordinances is hereby amended as follows¹:

Article VII. Retail Sale of Dogs and Cats

Sec. 16-60. Definitions. For purposes of this article, the following definitions shall apply:

1. "Animal shelter" means a public animal shelter or duly incorporated nonprofit organization devoted to the rescue.

¹ Underlined text has been added. ~~Strike-through~~ text has been deleted.

care and adoption of stray, abandoned or surrendered animals, and which does not breed animals.

2. "Cat" means an animal of the Felidae family of the order Carnivora.

3. "Certificate of source" means a document declaring the source of the dog or cat sold or transferred by the pet store. The certificate shall include the name and address of the source of the dog or cat.

4. "Dog" means an animal of the Canidae family of the order Carnivora.

5. "Existing pet store" means any pet store or pet store operator that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred cats or dogs in the Village on the effective date of this article and complied with all applicable provisions of the Code of Ordinances.

6. "Pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling animals at retail.

7. "Pet store operator" means a person who owns or operates a pet store, or both.

8. "Retail sale" includes display, offer for sale, offer for adoption, barter, auction, give away, or other transfer of any cat or dog.

Sec. 60-61. Prohibition. No pet store shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the Village on or after the effective date of this article.

Sec. 60-62. Existing Pet Stores. An existing pet store may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer cats and dogs until December 31, 2013.

Sec. 60-63. Exemptions. This article shall not apply to:

1. A person or establishment that sells, delivers, offers for sale, barter, auctions, gives away, or otherwise transfers or disposes of only animals that were bred and reared on the premises of the person or establishment;
2. A publicly operated animal control facility or animal shelter;
3. A private, charitable, nonprofit humane society or animal rescue organization; or
4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet store.

Sec. 60-64. Adoption of Shelter and Rescue Animals. Nothing in this article shall prevent a pet store or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet store for the purpose of adopting those animals to the public.

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Pinecrest; that the sections of this Ordinance may be renumbered or

re-lettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 11th day of September, 2013.

PASSED AND ADOPTED on second reading this 8th day of October, 2013.


Cindy Lerner, Mayor

Attest:



Guido H. Inguanzo, Jr., CMC
Village Clerk

Approved as to Form and Legal Sufficiency:



Village Attorney



Motion on Second Reading by:
Second on Second Reading by:

Councilmember Corradino
Councilmember Ross

Vote:

Councilmembers Corradino, McDonald, Ross, Vice Mayor Cutler, and Mayor Lerner voting Yes



The Miami-Dade County League of Cities

60th Annual Installation Gala

Honoring the Installation of our Incoming President

Cindy Lerner

*Mayor of the Villages of Ponce de Leon
and the*

2011-2015 Executive Board & Board of Directors

◆
Saturday, February 8, 2011

*6:30pm Cocktail Reception, 7:30pm Awards Ceremony
Installation and Dinner to Follow*

◆
*Jungle Island, Freetop Ballroom
1111 Parrot Jungle Trail, Miami, FL*

◆
R.S.V.P. 305-416-1655

No later than January 21, 2011



COMCAST