

The City of Aventura



Local Planning Agency
Susan Gottlieb, Mayor

Zev Auerbach
Bob Diamond
Teri Holzberg
Billy Joel
Michael Stern
Luz Urbacz Weinberg

City Manager
Eric M. Soroka, ICMA-CM

City Clerk
Teresa M. Soroka, MMC

City Attorney
Weiss Scrota Helfman
Pastoriza Cole & Boniske

LOCAL PLANNING AGENCY AGENDA

JULY 10, 2012 - 6 PM

Aventura Government Center
19200 West Country Club Drive
Aventura, Florida 33180

1. CALL TO ORDER\ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF MINUTES: June 5, 2012
4. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCES:
 - A. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.
 - B. AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-238 "ACCESSORY USES" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS FOR INSTALLATION OF RENEWABLE ENERGY DEVICES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS IN THE CITY; PROVIDING FOR WAIVER PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.
5. ADJOURNMENT

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. Anyone wishing to appeal any decision made by the City of Aventura Local Planning Agency with respect to any matter considered at such meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Agenda items may be viewed at the Office of the City Clerk, City of Aventura Government Center, 19200 West Country Club Drive, Aventura, Florida, 33180. Anyone wishing to obtain a copy of any agenda item should contact the City Clerk at 305-466-8901. One or more members of the City of Aventura Advisory Boards may also be in attendance.



**MINUTES
LOCAL PLANNING AGENCY
MEETING
JUNE 5, 2012 6 PM**

Government Center
19200 W. Country Club Drive
Aventura, Florida 33180

1. **CALL TO ORDER/ROLL CALL:** The meeting was called to order at 6:00 p.m. by Mayor Susan Gottlieb. Present were Commissioners Zev Auerbach (arrived after meeting reconvened), Bob Diamond, Billy Joel, Teri Holzberg, Luz Urbaz Weinberg, Michael Stern, Vice Mayor Teri Holzberg, Mayor Gottlieb, City Manager Eric M. Soroka, City Clerk Teresa M. Soroka and City Attorney David M. Wolpin. As a quorum was determined to be present, the meeting commenced.
2. **PLEDGE OF ALLEGIANCE:** Led by Representative Joe Gibbons
3. **APPROVAL OF MINUTES:** A motion to approve the minutes of the January 3, 2012 LPA Hearing was offered by Vice Mayor Holzberg, seconded by Commissioner Joel, and unanimously passed.

After motion made by Commissioner Joel, seconded by Commissioner Weinberg and unanimously passed, the meeting temporarily adjourned at this time to be reconvened after item 4 of the June 5, 2012 Regular Commission Meeting.

At 6:23 p.m., after motion made by Commissioner Diamond, seconded by Commissioner Stern and unanimously passed, the meeting reconvened.

4. **PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:** Mr. Wolpin reviewed the quasi-judicial procedures. Ex parte communications, if any were disclosed in accordance with the quasi-judicial procedures, and Mr. Wolpin read the following ordinances by title:
 - A. **AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE COMPREHENSIVE MASTER PLAN BY AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR PROPERTY LOCATED AT 3250 NE 188 STREET, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A", FROM BUSINESS AND OFFICE TO MEDIUM HIGH DENSITY RESIDENTIAL; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY UNDER CHAPTER 163, PART II, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.**
 - B. **AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF AVENTURA BY AMENDING THE ZONING DESIGNATION FOR A PARCEL OF LAND LOCATED AT 3250 NE 188 STREET AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A, FROM OP, OFFICE PARK DISTRICT TO RMF3B, MULTIFAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT;**

PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

A motion for approval of each ordinance was offered by Commissioner Joel and seconded by Vice Mayor Holzberg. Interested parties wishing to offer testimony on these matters were sworn in by City Clerk Teresa M. Soroka. Community Development Department Director Joanne Carr addressed the Commission and entered the staff report into the record. Mayor Gottlieb opened the public hearing. The following individuals addressed the Commission: Gary Nesbitt, Esq., Ryan Shear and Ron Silver, representing the applicant; Hugo Pak, 3131 NE 188 Street. There being no further speakers, the public hearing was closed. The motion for approval of Item 4-A passed unanimously by roll call vote. The motion for approval of Item 4-B passed unanimously by roll call vote.

- 5. ADJOURNMENT:** There being no further business to come before the Local Planning Agency, the meeting adjourned at 6:55 p.m.

Teresa M. Soroka, MMC, City Clerk

Approved by the LPA on _____.

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: June 6, 2012

SUBJECT: Application to Amend Section 31-144(f) of the Land Development Regulations to add a conditional use to the Medical Office (MO) District (03-LDR-12)

July 10, 2012 Local Planning Agency Agenda Item 4-A
July 10, 2012 City Commission Meeting Agenda Item 7-A
September 4, 2012 City Commission Meeting Agenda Item

RECOMMENDATION

It is recommended that the City Commission approve the request for an amendment to Section 31-144 (f), "Medical Office (MO) District" of the Land Development Regulations to add "self service storage facilities with a minimum lot area of 1.5 acres" as a conditional use in the district.

THE REQUEST

The applicant, Public Storage, Inc., has made a Public Hearing Application for Amendment to the Text of the Land Development Regulations to request the addition of "self service storage facilities with a minimum lot area of 1.5 acres" as a conditional use in the Medical Office (MO) zoning district. (See Exhibit #1 for Letter of Intent)

DESCRIPTION OF THE PROPOSED AMENDMENT

The amendment proposed to Section 31-144 (f) of the Land Development Regulations is the following addition in underlined text:

"Sec. 31-144. Business Zoning Districts. ...

(f) Medical Office (MO) District. This district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. This zoning district may be applied to land designated Business and Office on the City's Future Land Use Map, however the uses within this district shall be consistent with, but may be more restrictive than, the corresponding Business and Office category permitted uses. ...

(1) *Uses Permitted.* No building or structure, or part thereof, shall be erected, altered or used, or land used in whole or part for other than one or more of the following specific uses: ...

(2) *Conditional Use.* The following uses if first approved as a conditional use:

- a. Business-related schools.
- b. Multi-family residential uses with a maximum density of 35 dwelling units per gross acre and within a minimum lot area of two acres.
- c. Uses that exceed the height limitations.
- d. Retail uses with a minimum lot area of two gross acres.
- e. Drive-through facility.
- f. Heliport landing site.
- g. Automobile parking garages, exceeding two stories but not over six stories in height, as a stand-alone use.
- h. All uses permitted in the CF District.
- i. For those properties lying between NE 206 Street to the south, NE 209 Street to the north, NE 28 Avenue to the east and East Dixie Highway to the west, the following additional uses may be permitted if first approved as a conditional use:
 1. Uses that exceed the maximum floor area ratio.
 2. Uses that do not meet the open space requirements of the district, upon payment of a fee-in-lieu of open space to be used for public park improvements. The amount of such fee shall be determined by the City Manager based on the appraised value of the land and the amount of reduction in open space requested, provided, however, that the amount of open space shall not be reduced below 15 percent of the total lot area and that the development complies with the Streetscape Design Standards of this section.
- j. Self service storage facilities with a minimum lot area of 1.5 acres. ...

ANALYSIS

The Medical Office (MO) zoning district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. The uses in the district shall be consistent with, but may be more restrictive than, the corresponding Business and Office future land use category permitted uses. That Business and Office future land use category is comprehensive and accommodates the full range of sales and services activities. A self service storage facility is a service that may be contemplated in this category.

The applicant has an existing "first generation" style self storage facility on its land on Biscayne Boulevard, which was constructed prior to incorporation of the City. It seeks to upgrade that facility to modern public storage standards; however, the self storage use is not currently a permitted or conditional use in the Medical Office zoning district. The applicant advises that its current facility has a number of tenants related to medical use including medical suppliers, hospitals and physicians and may therefore be considered as compatible with the intent of the Medical Office zoning district, as it supports the storage needs of the medical profession and related business and office uses..

The existing site development standards for the properties in the north portion of the Medical Office (MO) zoning district require a minimum lot size of 1.5 acres. The proposed amendment will provide that same minimum lot size to be consistent with development of other lots in the area.

Section 31-77, Land Development Regulations Standards for reviewing proposed amendments to the text of the LDR:

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The future land use designation for properties zoned Medical Office (MO) District is Business and Office. The intent of the Business and Office land use designation is described in the Future Use Element of the City's Comprehensive Plan. This category is intended to accommodate the full range of sales and service activities in our City. A self service storage facility is a service that may be contemplated by this land use category.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. "The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City..." The proposed amendment is consistent with this purpose. The standards in the City's Land Development Regulations for the conditional use approval process will provide for review, through public hearing, of any proposed development or redevelopment of self service storage facilities to assure that the use will be compatible with surrounding businesses and medical office uses and will be a complementary use in the Medical Office zoning district.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City, for the reasons provided in Paragraph 3 above.

5. *The proposed amendment improves the administration or execution of the development process.*

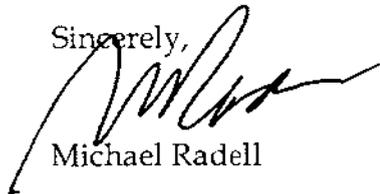
The proposed amendment improves the administration or execution of the development process in that it provides for a process by which to approve development or redevelopment of self service storage facilities in the Medical Office (MO) District through the conditional use approval standards of the Land Development Regulations.

Ms. Joanne Carr
May 25, 2012
Page 2

includes a number of tenants related to medical use including medical suppliers, hospitals and physicians. Public Storage's existing tenants also include many businesses and residents of the City Aventura. In fact, the City of Aventura is, itself, a tenant of Public Storage at this facility. Accordingly, we believe that storage facilities are an appropriate use in this location subject to conditional use approval by the City Commission. This will allow both staff and the City Commission to review any proposed redevelopment plan to assure that it will be compatible with the surrounding business and medical office uses, and will be a complementary use in the Medical Office zoning district.

We look forward to working with you through this code amendment process. Please do not hesitate to call me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Radell", written over the word "Sincerely,".

Michael Radell

MR/ah

cc: Jim Fitzpatrick, Public Storage
Gus Carbonell



APPLICANT REPRESENTATIVE AFFIDAVIT

Pursuant to Section 31-71(b)(2)(i) of the City of Aventura Land Development Code, this Applicant Representative Affidavit is hereby made and submitted. The undersigned authorized representative of the individual or entity applying for the Development Permit, which is identified in the accompanying application, and the owner of the property subject to the application (if different) hereby lists and identifies all persons representing the individual or entity applying for the Development Permit in connection with the application, as follows:

Name	Relationship (i.e. Attorneys, Architects, Landscape Architects, Engineers, Lobbyists, Etc.)
<u>Michael Radell</u>	<u>Attorney</u>
_____	_____
_____	_____
_____	_____

(Attach Additional Sheets if Necessary)

NOTICE: ANY STATEMENT OR REPRESENTATION MADE BY ANY PERSON LISTED ON THE APPLICANT REPRESENTATIVE AFFIDAVIT SHALL BE BINDING UPON THE INDIVIDUAL OR ENTITY APPLYING FOR THE DEVELOPMENT PERMIT AND THE OWNER OF THE SUBJECT PROPERTY. APPLICANTS AND AFFIANTS ARE ADVISED TO TIMELY SUPPLEMENT THIS AFFIDAVIT PURSUANT TO SEC. 31-71(B)(2)(IV) OF THE CITY'S LAND DEVELOPMENT REGULATIONS IN THE CITY CODE. IN THE EVENT THAT PRIOR TO CONSIDERATION OF THE APPLICATION BY THE CITY BOARD OR COMMISSION, THE INFORMATION PROVIDED IN THE AFFIDAVIT BECOMES INCORRECT OR INCOMPLETE.

WITNESS MY HAND THIS 13th DAY OF June, 2012

AUTHORIZED REPRESENTATIVE OF APPLICANT

By: _____
 (Signature)

Name: _____
 (Print)

Title: _____

Address: _____

OWNER

By: [Signature] X

Name: JIM FITZPATRICK
 (Print)

Title: SR V-P, DGI, REAL ESTATE DIV.

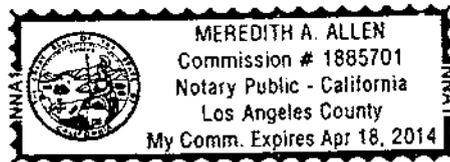
Address: PUBLIC STORAGE, 701
WESTERN AVE, GLENDALE, CA.

STATE OF ~~FLORIDA~~ CALIFORNIA
COUNTY OF ~~MIAMI~~ (DADE)

Before me the undersigned authority personally appeared JIM FITZPATRICK as the authorized representative of the Applicant and/or the owner of the property subject to the application, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME this 13th day of June, 2012

[Signature] X
AFFIANT
2012



Notary Public State of Florida ~~At Largo~~ California
Printed Name of Notary MEREDITH A. ALLEN
My commission expires APRIL 18, 2014



BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(b)(2)(ii) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that: (mark with "x" applicable portions only)

MARK
AFFIDAVIT
IS A
CHECK

1. Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented.

2. Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented, as follows:

_____ (List name of Commissioner or Advisory Board Member) who serves on the _____ (List City Commission or City Advisory Board upon which member serves).

The nature of the Business Relationship is as follows:

- i. Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative.
- ii. Member of City Commission or Board is a partner, co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture.
- iii. The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board.
- iv. A City Commissioner or Board member is a Client of the Applicant or Representative.
- v. The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year.
- vi. The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year.

WITNESS MY HAND THIS 13th DAY OF June, 2002

APPLICANT:

By: [Signature] (Signature) X
Name: JOHN FITZPATRICK (Print)
Title: SR P. DEVELOPMENT (Print)

WITNESS MY HAND THIS _____ DAY OF _____, 200__

PROPERTY OWNER

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code.

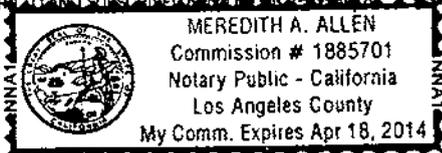
CALIFORNIA
STATE OF FLORIDA)
COUNTY OF MIAMI-DADE) LOS ANGELES

NOTARIZATION PROVISION

Before me, the undersigned authority, personally appeared JIM FITZPATRICK the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

[Signature]
AFFIANT

SWORN TO AND SUBSCRIBED before me this 12th day of June, 2012



[Signature]
Notary Public State of Florida At Large CALIFORNIA
MEREDITH A. ALLEN
Printed Name of Notary
My commission expires: APRIL 18, 2014

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

AFFIANT

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 200__

Notary Public State of Florida At Large
Printed Name of Notary
My commission expires: _____



BUSINESS RELATIONSHIP AFFIDAVIT*

This Affidavit is made pursuant to Section 31-71(b)(2)(ii) of the City of Aventura Land Development Code. The undersigned Affiant hereby discloses that (mark with "x" applicable portions only)

MAKEL
AFFIDAVIT
BOOK

1
2

1. Affiant does not have a Business Relationship with any member of the City Commission or any City Advisory Board to which the application will be presented.

2. Affiant hereby discloses that it does have a Business Relationship with a member of the City Commission or a City Advisory Board to which the application will be presented as follows:

_____ (List name of Commissioner or Advisory Board Member) who serves on the _____ (List City Commission or City Advisory Board upon which member serves)

The nature of the Business Relationship is as follows:

- i. Member of City Commission or Board holds an ownership interest in excess of 1% of total assets or capital stock of Applicant or Representative;
- ii. Member of City Commission or Board is a partner, co-shareholder (as to shares of a corporation which are not listed on any national or regional stock exchange) or joint venturer with the Applicant or Representative in any business venture;
- iii. The Applicant or Representative is a Client of a member of the City Commission or Board or a Client of another professional working from the same office or for the same employer as the member of the City Commission or Board;
- iv. A City Commissioner or Board member is a Client of the Applicant or Representative;
- v. The Applicant or Representative is a Customer of the member of the City Commission or Board (or of his or her employer) and transacts more than \$10,000.00 of the business of the member of the City Commission or Board (or his or her employer) in a given calendar year;
- vi. The member of the City Commission or Board is a Customer of the Applicant or Representative and transacts more than \$25,000.00 of the business of the Applicant or Representative in a given calendar year.

WITNESS MY HAND THIS _____ DAY OF _____, 200__.

APPLICANT

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

WITNESS MY HAND THIS _____ DAY OF _____, 200__.

PROPERTY OWNER

By: _____ (Signature)
Name: _____ (Print)
Title: _____ (Print)

*The terms "Business Relationship," "Client," "Customer," "Applicant," "Representative" and "Interested Person" are defined in Section 2-395 of the Aventura City Code.

WITNESS MY HAND THIS 17 DAY OF JUNE, 2022

REPRESENTATIVE (Listed on Business Relationship Affidavit)

By: [Signature] (Signature) X

Name: NICHAS RODELL (Print)

Title: ATTORNEY (Print)

By: _____ (Signature)

Name: _____ (Print)

Title: _____ (Print)

By: _____ (Signature)

Name: _____ (Print)

Title: _____ (Print)

By: _____ (Signature)

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NOTE: 1) Use duplicate sheets if disclosure information for Representative varies

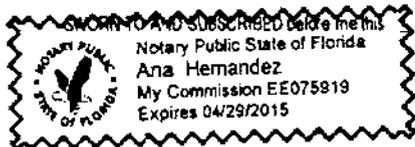
2) Applicants and Affiants are advised to timely supplement this Affidavit pursuant to Sec. 31-71(b)(2)(iv) of the City's Land Development Regulations in the City Code, in the event that prior to consideration of the application by the City Board or Commission, the information provided in the Affidavit becomes incorrect or incomplete.

NOTARIZATION PROVISION

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared Michael Reyes the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

[Handwritten Signature]
AFFIANT



day of June, 2012

Notary Public State of Florida At Large

Printed Name of Notary Ana Hernandez
My commission expires

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

_____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary _____
My commission expires _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

_____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary _____
My commission expires _____

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Before me, the undersigned authority, personally appeared _____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she executed this Affidavit for the purposes stated therein and that it is true and correct

_____ the Affiant, who being first by me duly sworn, did swear or affirm that he/she

AFFIANT

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 200__

Notary Public State of Florida At Large

Printed Name of Notary _____
My commission expires _____

ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-144(f) "MEDICAL OFFICE (MO) DISTRICT" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD "SELF SERVICE STORAGE FACILITIES WITH A MINIMUM LOT AREA OF 1.5 ACRES" AS A CONDITIONAL USE IN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Aventura is desirous of amending Section 31-144(f) of the City's Land Development Regulations to permit self service storage facilities with a minimum lot area of 1.5 acres as a conditional use in the Medical Office (MO) zoning district; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has reviewed the proposed amendment, and finds that it is in the best interests of the public to amend Section 31-144(f) of the City's Land Development Regulations, as set forth in this Ordinance; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. Section 31-144 (f), "Medical Office (MO) District" of the Land Development Regulations is hereby amended as follows¹:

¹ Underlined provisions constitute proposed additions to existing text; text without underline or strike-through constitute existing text.

Sec. 31-144. Business Zoning Districts.

(f) Medical Office (MO) District. This district is intended to provide for medical offices and other uses supporting the medical profession associated with the hospital. This zoning district may be applied to land designated Business and Office on the City's Future Land Use Map, however the uses within this district shall be consistent with, but may be more restrictive than, the corresponding Business and Office category permitted uses.

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(2) *Conditional Use.* The following uses if first approved as a conditional use:

- a. Business-related schools.
 - b. Multi-family residential uses with a maximum density of 35 dwelling units per gross acre and within a minimum lot area of two acres.
 - c. Uses that exceed the height limitations.
 - d. Retail uses with a minimum lot area of two gross acres.
 - e. Drive-through facility.
 - f. Heliport landing site.
 - g. Automobile parking garages, exceeding two stories but not over six stories in height, as a stand-alone use.
 - h. All uses permitted in the CF District.
 - i. For those properties lying between NE 206 Street to the south, NE 209 Street to the north, NE 28 Avenue to the east and East Dixie Highway to the west, the following additional uses may be permitted if first approved as a conditional use:
 1. Uses that exceed the maximum floor area ratio.
-

2. Uses that do not meet the open space requirements of the district, upon payment of a fee-in-lieu of open space to be used for public park improvements. The amount of such fee shall be determined by the City Manager based on the appraised value of the land and the amount of reduction in open space requested, provided, however, that the amount of open space shall not be reduced below 15 percent of the total lot area and that the development complies with the Streetscape Design Standards of this section.

i. Self service storage facilities with a minimum lot area of 1.5 acres.

~~j-~~ k. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased lot coverage, provided that a green roof and/or green rooftop amenities are provided and maintained for the common benefit of building occupants; and; that increased Florida-Friendly tree canopy and Florida-Friendly plantings designed to calm the heat island effect are located on site, all in an amount equal to the requested increased lot coverage.

~~k-~~ l. For buildings that attain LEED® Gold or Platinum certification as provided in Article VI of Chapter 14 of the City Code, increased floor area ratio, not to exceed a floor area ratio of 2.0.

Section 3. 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 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

The foregoing Ordinance was offered by _____, who moved its adoption on second reading. This motion was seconded by _____, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED on first reading this 10th day of July, 2012.

CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this ____ day of _____, 2012.

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: June 7, 2012

SUBJECT: Application to Amend Section 31-238 "Accessory Uses" of the Land Development Regulations to add standards for installation of renewable energy devices (01-LDR-12)

July 10, 2012 Local Planning Agency Agenda Item 4-B
July 10, 2012 City Commission Meeting Agenda Item 7-B
September 4, 2012 City Commission Meeting Agenda Item

RECOMMENDATION

It is recommended that the City Commission approve the request for an amendment to Section 31-238 "Accessory Uses" of the Land Development Regulations by adding standards for installation of renewable energy devices.

THE REQUEST

City staff is requesting approval of an amendment to the text of the Land Development Regulations to add standards for installation of renewable energy devices, including, but not limited to, solar collector panels and wind turbines. The purpose of the new section is to encourage and facilitate installation of accessory renewable energy systems in our City, while mitigating possible nuisances to maintain the unique aesthetic quality of the City.

DESCRIPTION OF THE PROPOSED AMENDMENT

The amendment proposed to Section 31-238 "Accessory Uses" of the Land Development Regulations is the following addition in underlined text:

"Sec. 31-238. Accessory Uses.

- (a) *General.* No accessory uses shall be permitted in a required yard or bufferyard area, except as set forth below. In no event shall an accessory use be construed to authorize a use not otherwise permitted in the district in which the principal use is located and in no event shall an accessory use be established prior to the principal use to which it is accessory. No permanent structures shall be permitted in utility easements without the written prior approval of the appropriate utilities, and the concurrence of the City.

...
“(o) Renewable Energy Devices

Non-commercial renewable energy devices, including solar collector panels, wind turbines, clotheslines and other energy devices using renewable resources, shall be permitted as an accessory use in all zoning districts, provided that; (i) the device installation complies with all site development standards of this subsection, complies with the applicable zoning district and complies with the landscape standards of these LDRs and provided that; (ii) excepting solar collector panels, the number and size of renewable energy devices installed on a property shall not exceed the total number of kilowatts needed to generate the amount of energy required to serve the established uses located on the property upon which the renewable energy devices are installed; (iii) any sell-back of energy shall be made only as authorized by law and further provided that; (iv) the following conditions are met:

- (1) The device installation shall not create a nuisance as determined by the City Manager or his designee;
- (2) The device installation shall not interfere with any existing broadcast, transmission or reception antenna, including, but not limited to the City’s emergency communication system;
- (3) The device or devices shall be installed in a manner to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard;
- (4) The device or devices shall not be mounted on or supported by building walls unless approved by the City Manager or his designee;
- (5) No signage, advertising, pennants, ribbons, balloons, flags, banners or similar material shall be placed on any renewable energy device;
- (6) The device installation shall not be placed on patio or balcony railings in condominiums, cooperatives or apartments;
- (7) The device installation shall comply with all applicable building, fire and life safety codes and regulations, as evidenced by obtaining all necessary permits prior to installation;
- (8) Wind turbines shall not exceed the higher of 18 feet above the main roofline or the manufacturer’s recommended height for the particular model to be installed;
- (9) Roof-mounted wind turbines and other related rooftop equipment and structures shall not occupy more than 5% of the roof area;
- (10) Wind turbines shall be painted a non-reflective, non-obtrusive color that conforms to the environment and architecture of the community;

- (11) Solar collector panels shall not project above the ridge of a sloped roof and shall not project more than 5 feet above the finished slope of the roof surface or more than 5 feet above the deck or parapet of a flat roof. No part of the device shall extend beyond the edge of the roof. All mounting hardware, electrical and other connections required for operation of the panels shall be screened from view;
- (12) No lighting of a renewable energy device is permitted, except as required by Federal Aviation Administration or other agency having jurisdiction;
- (13) Ground installations shall comply with the site development criteria of the applicable zoning district;
- (14) Any renewable energy device found to be unsafe by the Building Official shall be repaired by the property owner to meet all federal, state and local safety standards or shall be removed within 30 days of such determination of the Building Official;
- (15) If any renewable energy device is not operational for a period of 12 consecutive months or more, the device shall be removed by the property owner within 30 days of the date of written notice by the City to remove such device.
- (16) Waivers. A waiver to provide relief from the requirements of this subsection, or any other applicable development standards of the LDRs of Chapter 31 of this Code, may be granted in those cases where strict application of such requirements would have the effect of prohibiting the operation and functionality of a renewable energy device. It is acknowledged that emerging technologies in renewable energy devices may also require and justify a waiver of provisions of this subsection.
 - (i) An application for a waiver under this subsection shall be filed by the owner of the property upon which the waiver is requested, or their designated representative. The application shall be on a form provided by the City.
 - (ii) Waivers from this section or other applicable LDRs of Chapter 31 of this Code, may be granted by the City Manager or his designee only when competent and substantial evidence demonstrates that the particular waiver or waivers requested are necessary for the operation and functionality of the particular renewable energy device to serve the energy needs of the uses and structures located on the subject property.
 - (iii) Appeals from a decision of the City Manager or his designee pursuant to this subsection shall be made in accordance with Section 31-83 of the Code."

ANALYSIS

City staff has had inquiries from contractors as to our regulations for installation of renewable energy devices, specifically, wind turbines and solar collector panels.

The City Code does not specifically address these devices. Our Code refers generally to mechanical equipment in two sections. The first reference is in Section 31-21 of the City Code, where the description of height provides that "...mechanical equipment, chimneys, spires, steeples, radio or television antenna, flag poles, solar apparatus and utility poles" are excluded from overall building height determination. The second reference is in Section 31-233, where architectural standards provide that mechanical equipment needs to be screened from the adjacent public road and from adjacent properties. This required

screening would interfere with the operation of a wind turbine or solar collector panel. Absent any specific regulation on these types of devices, an applicant would need to seek a variance from the screening requirement of the Code.

Section 163.04 of the Florida Statutes regulates "Energy Devices based on renewable resources". A copy of this Section is attached to this report. In summary, this Section prohibits the adoption of an ordinance by a governing body that prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines or other energy devices based on renewable resources. The Section further provides no deed restriction, covenant, declaration or other similar agreement may prohibit these devices and a property owner may not be denied permission to install a renewable energy device on a residential or condominium unit, with the exception of determination of specific location for solar collectors and placement on patio railings. The City Attorney has opined that the City Commission may adopt reasonable standards to support these installations while ensuring that the effect of the standards does not prohibit their installation.

The proposed amendment to the Land Development Regulations is designed to facilitate the installation of renewable energy devices, as an accessory use to a principal use, to mitigate possible nuisances and to provide predictability for building owners by setting installation standards. It is also designed to continue and expand the City's "Go Green" program to promote green initiatives. To provide for consistency with Section 163.04, Florida Statutes, the proposed regulation includes an administrative waiver procedure, which provides property owners with an opportunity to obtain relief from the standards, where its strict application would have the effect of prohibiting the operation and functionality of the renewable energy device.

Section 31-77, Land Development Regulations

Standards for reviewing proposed amendments to the text of the LDR:

1. *The proposed amendment is legally required.*

The proposed amendment is legally required to implement the requested revision to the Code.

2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.*

The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan. The Comprehensive Plan is intended to guide future development in the City while maintaining the integrity of the built and natural environment.

3. *The proposed amendment is consistent with the authority and purpose of the LDRs.*

The proposed amendment is consistent with the authority and purpose of the Land Development Regulations. The LDRs are enacted pursuant to the requirements and

authority of F.S. Chapter 163, Part II and the general powers confirmed in F.S. Chapter 166. The purpose of the LDRs is to implement further the Comprehensive Plan of the City by establishing regulations, procedures and standards for review and approval of all development and uses of land and water in the City. Further, the LDRs are adopted in order to foster and preserve public health, safety and welfare and to aid in the harmonious, orderly and progressive development and redevelopment of the City. The proposed amendment is consistent with this purpose.

4. *The proposed amendment furthers the orderly development of the City.*

The proposed amendment furthers the orderly development of the City.

5. *The proposed amendment improves the administration or execution of the development process.*

The proposed amendment improves the administration or execution of the development process in that it provides standards for installation of renewable energy devices.

The Florida Senate

2011 Florida Statutes

<u>TITLE XI</u> COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	<u>CHAPTER 163</u> INTERGOVERNMENTAL PROGRAMS	<u>VIEW ENTIRE CHAPTER</u>
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163.04 Energy devices based on renewable resources.—

(1) Notwithstanding any provision of this chapter or other provision of general or special law, the adoption of an ordinance by a governing body, as those terms are defined in this chapter, which prohibits or has the effect of prohibiting the installation of solar collectors, clotheslines, or other energy devices based on renewable resources is expressly prohibited.

(2) A deed restriction, covenant, declaration, or similar binding agreement may not prohibit or have the effect of prohibiting solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the deed restriction, covenant, declaration, or binding agreement. A property owner may not be denied permission to install solar collectors or other energy devices by any entity granted the power or right in any deed restriction, covenant, declaration, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings and within the boundaries of a condominium unit. Such entity may determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45° east or west of due south if such determination does not impair the effective operation of the solar collectors.

(3) In any litigation arising under the provisions of this section, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(4) The legislative intent in enacting these provisions is to protect the public health, safety, and welfare by encouraging the development and use of renewable resources in order to conserve and protect the value of land, buildings, and resources by preventing the adoption of measures which will

have the ultimate effect, however unintended, of driving the costs of owning and operating commercial or residential property beyond the capacity of private owners to maintain. This section shall not apply to patio railings in condominiums, cooperatives, or apartments.

History.—s. 8, ch. 80-163; s. 1, ch. 92-89; s. 14, ch. 93-249; s. 1, ch. 2008-191; s. 3, ch. 2008-227.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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ORDINANCE NO. 2012-____

AN ORDINANCE OF THE CITY OF AVENTURA, FLORIDA, AMENDING SECTION 31-238 "ACCESSORY USES" OF THE CITY'S LAND DEVELOPMENT REGULATIONS TO ADD STANDARDS FOR INSTALLATION OF RENEWABLE ENERGY DEVICES AS AN ACCESSORY USE IN ALL ZONING DISTRICTS IN THE CITY; PROVIDING FOR WAIVER PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission places a strong emphasis on and desires to foster a sustainable and healthy environment for its residents and has adopted and promotes a "Go Green" Program and Green Building incentives; and

WHEREAS, in furtherance of that emphasis and desire, the City Commission wishes to amend the City's Land Development Regulations to add standards for installation of renewable energy devices as an accessory use in all zoning districts and to provide for waivers to such standards if necessary to permit the operation of the device; and

WHEREAS, the City Commission has been designated as the Local Planning Agency for the City pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, the Local Planning Agency has reviewed the proposed amendment pursuant to the required public hearing and has recommended approval to the City Commission; and

WHEREAS, the City Commission has held the required public hearings, duly noticed in accordance with law; and

WHEREAS, the City Commission has reviewed the action set forth in the Ordinance and has determined that such action is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF AVENTURA, FLORIDA, THAT:

Section 1. Recitals. The foregoing whereas clauses are hereby ratified and incorporated within this Ordinance.

Section 2. Section 31-238 "Accessory Uses" of the Land Development Regulations is hereby amended as follows¹:

¹ Underlined provisions constitute proposed additions to existing text; text without underline or strike-through constitute existing text.

“Sec. 31-238. Accessory Uses.

- (a) *General.* No accessory uses shall be permitted in a required yard or bufferyard area, except as set forth below. In no event shall an accessory use be construed to authorize a use not otherwise permitted in the district in which the principal use is located and in no event shall an accessory use be established prior to the principal use to which it is accessory. No permanent structures shall be permitted in utility easements without the written prior approval of the appropriate utilities, and the concurrence of the City.

...

“(o) Renewable Energy Devices

Non-commercial renewable energy devices, including solar collector panels, wind turbines, clotheslines and other energy devices using renewable resources, shall be permitted as an accessory use in all zoning districts, provided that: (i) the device installation complies with all site development standards of this subsection, complies with the applicable zoning district and complies with the landscape standards of these LDRs and provided that: (ii) excepting solar collector panels, the number and size of renewable energy devices installed on a property shall not exceed the total number of kilowatts needed to generate the amount of energy required to serve the established uses located on the property upon which the renewable energy devices are installed; (iii) any sell-back of energy shall be made only as authorized by law and further provided that; (iv) the following conditions are met:

- (1) The device installation shall not create a nuisance as determined by the City Manager or his designee;
 - (2) The device installation shall not interfere with any existing broadcast, transmission or reception antenna, including, but not limited to the City's emergency communication system;
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 - (8) Wind turbines shall not exceed the higher of 18 feet above the main roofline or the manufacturer's recommended height for the particular model to be installed;
-

- (9) Roof-mounted wind turbines and other related rooftop equipment and structures shall not occupy more than 5% of the roof area;
- (10) Wind turbines shall be painted a non-reflective, non-obtrusive color that conforms to the environment and architecture of the community;
- (11) Solar collector panels shall not project above the ridge of a sloped roof and shall not project more than 5 feet above the finished slope of the roof surface or more than 5 feet above the deck or parapet of a flat roof. No part of the device shall extend beyond the edge of the roof. All mounting hardware, electrical and other connections required for operation of the panels shall be screened from view;
- (12) No lighting of a renewable energy device is permitted, except as required by Federal Aviation Administration or other agency having jurisdiction;
- (13) Ground installations shall comply with the site development criteria of the applicable zoning district;
- (14) Any renewable energy device found to be unsafe by the Building Official shall be repaired by the property owner to meet all federal, state and local safety standards or shall be removed within 30 days of such determination of the Building Official;
- (15) If any renewable energy device is not operational for a period of 12 consecutive months or more, the device shall be removed by the property owner within 30 days of the date of written notice by the City to remove such device.
- (16) Waivers. A waiver to provide relief from the requirements of this subsection, or any other applicable development standards of the LDRs of Chapter 31 of this Code, may be granted in those cases where strict application of such requirements would have the effect of prohibiting the operation and functionality of a renewable energy device. It is acknowledged that emerging technologies in renewable energy devices may also require and justify a waiver of provisions of this subsection.
 - (i) An application for a waiver under this subsection shall be filed by the owner of the property upon which the waiver is requested, or their designated representative. The application shall be on a form provided by the City.
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 - (iii) Appeals from a decision of the City Manager or his designee pursuant to this subsection shall be made in accordance with Section 31-83 of the Code."

Section 3. 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 4. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Aventura; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote was as follows:

Commissioner Zev Auerbach	_____
Commissioner Bob Diamond	_____
Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

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Commissioner Billy Joel	_____
Commissioner Michael Stern	_____
Commissioner Luz Urbaez Weinberg	_____
Vice Mayor Teri Holzberg	_____
Mayor Susan Gottlieb	_____

PASSED on first reading this 10th day of July, 2012.

PASSED AND ADOPTED on second reading this ____ day of _____, 2012.

SUSAN GOTTLIEB, MAYOR

ATTEST:

TERESA M. SOROKA, MMC
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

CITY ATTORNEY

This Ordinance was filed in the Office of the City Clerk this ____ day of _____, 2012.