

ORDINANCE 85-14

ORDINANCE AMENDING CHAPTER 33D (BISCAYNE BAY MANAGEMENT) OF THE CODE OF METROPOLITAN DADE COUNTY, FLORIDA, BY PROVIDING FOR REVIEW OF DEVELOPMENT ACTIONS AND PLANS WITHIN THE SHORELINE DEVELOPMENT REVIEW BOUNDARY; DECLARING LEGISLATIVE INTENT; PROVIDING DEFINITIONS; ESTABLISHING A SHORELINE DEVELOPMENT REVIEW COMMITTEE AND PROVIDING DUTIES AND RESPONSIBILITIES OF THE COMMITTEE; ESTABLISHING RESPONSIBILITIES OF THE EXECUTIVE COUNCIL OF DEVELOPMENT IMPACT COMMITTEE AND OF COUNTY AND MUNICIPAL OFFICIALS; PROVIDING FOR MEMORANDA OF AGREEMENT BETWEEN COUNTY AND MUNICIPALITIES; PROVIDING REVIEW CRITERIA; PROVIDING FOR JUDICIAL REVIEW; PROVIDING FOR EXEMPTIONS AND VESTED RIGHTS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR EFFECTIVE DATE, SEVERABILITY AND INCLUSION IN THE CODE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1 Legislative Intent

1. The Board of County Commissioners of Metropolitan Dade County, Florida, hereby declares that it is in the public interest to provide a unified management system for the Biscayne Bay shoreline area that will preserve the basic qualities, characteristics, and the natural, recreational and aesthetic values of the Biscayne Bay area, including the northern embayments of Dumfoundling Bay, Maule Lake and Little Maule Lake. In making this declaration the Board is mindful of its authority under its Home Rule Charter to prepare and enforce comprehensive plans for the development of Dade County; to establish, coordinate and enforce zoning as is necessary for the protection of the public; and to exercise all powers and privileges granted to municipalities, counties and county offices by the constitution and law of the state, and all powers not prohibited by the constitution or by the charter, and to perform any other acts consistent with laws which are required by the Charter or which are in the common interest of the people of the County.

In furtherance of its duties and responsibilities under the Home Rule Charter, this Board has adopted the Comprehensive Development Master Plan to plan for and manage population growth in a manner compatible with preserving the natural environment, to protect natural and man-made amenities, and to improve the process of evaluating development and redevelopment projects in order to achieve creative developments which are coordinated with services and to insure the harmonious relationship between man and his environment.

In discharging its duties and responsibilities under the Home Rule Charter the Board has declared Biscayne Bay to be a County Aquatic Park and Conservation Area for the use and benefit of all citizens of Dade County and has adopted the Biscayne Bay Management Plan to address and resolve certain jurisdictional problems relating to shoreline management; to provide a wide array of water-oriented opportunities for the public-at-large at the water's edge; to enhance physical and visual access to Biscayne Bay and the northern embayments; to provide environmentally sound utilization of those water bodies; to maintain or enhance biological communities that are essential to the long-term viability of Biscayne Bay and the northern embayments; and thus to enhance Biscayne Bay's and the northern embayments' contribution to the economic health of the Dade County Community.

2. In accordance with the provisions and recommendations of the Biscayne Bay Management Plan, the procedures and criteria included herein below are intended to achieve the following objectives:

- a. to preserve or enhance the natural, aesthetic and recreational values of the Biscayne Bay Area

- b. to encourage the best use of the water and shoreline area for the benefit, use and enjoyment of residents of and visitors to Metropolitan Dade County
- c. to provide the maximum amount of public visual and physical access to the water through the provision of mixed use facilities and places open to the public at large, such as, walkways, boardwalks, plazas, and observation areas along the shoreline
- d. to encourage new shoreline development along the waterfront to respect the coastal environment, and to orient or reorient shoreline uses and buildings to the water
- e. to avoid monotony in building heights and widths and appearances along the developed areas of shoreline and, above all, to avoid further walling off of the shoreline through appropriate site preparation and landscape design
- f. to prevent the siting of uses along the bayshore that are incompatible with adjacent in-water and developed areas
- g. to encourage the retention and use of native plant materials along the shoreline
- h. to provide landscaping in the viewing corridors and shoreline setback areas that focuses views toward the water
- i. to create or recreate over the next few decades, a natural soft edge and greenbelt-like quality along the bay shoreline
- j. to plan and design new developments, or make improvements to existing developments, in a manner that will enhance the view and enjoyment of the water and shoreline area from the

street, from the water, from within the development and overlooking the development

- k. to encourage the integration of existing historic structures and features in new shoreline developments.

This ordinance and all implementing resolutions adopted pursuant to this ordinance shall apply to both the incorporated

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Section 2 Definitions

1. Ancillary Structure any structure other than the principal building on a lot or parcel which is subordinate to or not a part of the principal building.

2. Basin Area a water area in Biscayne Bay defined by the mainland on the west, the barrier islands on the east, and causeways or natural banks on the north and south.

3. Bay Biscayne Bay and the northern embayments of Dumfoundling Bay, Maule Lake and Little Maule Lake and the Intracoastal Waterway from NE 163 Street to the Broward County line.

4. Development the carrying out of any use permitted on land by applicable zoning regulations (i.e. Chapter 33 of the Code of Metropolitan Dade County, Florida, or municipal codes), or making any material change in the use or character of the upland or submerged land, including but not limited to the placement of structures on the upland, or on or over submerged lands.

5. Development action any standard form Coastal Construction permit as defined in Chapter 24 of the Dade County Code or any plat approval; building permit; zoning permit or approval, rezoning or district boundary change; variance; special exception; conditional permit; unusual use; special use permit or any

other zoning action that would alter the outside configuration of any building, structure or ancillary structure or change the existing grade elevation or use of any parcel within the shoreline development review boundary.

6. Grade the established grade of the premises, whether vacant or improved, is the highest elevation of the centerline of the existing (or proposed) roadway adjacent to the property.

7. Plan a document, area study or map prepared by a private or public entity for or at the request of, a unit of government. Such plans may include goals and objectives, policy statements, guidelines and recommended implementation methods. Such plans shall include the land use master plan amendments as described in the Florida Local Government Comprehensive Planning Act (Florida Statutes, Chapter 163, Part II) or may be related to specific functions and uses such as, but not limited to resource use, resources management, transportation, commercial or economic development and park plans. For purposes of this ordinance, this shall not include site or building plans which are submitted as part of an application for development action.

8. Roadway any cleared, plowed, bulldozed, filled, graded, excavated, or artificially created paved or unpaved path or way on public property intended or used for the passage of vehicles.

9. Shoreline the immediate interface of land and surface water body.

10. Shoreline Development Review Boundary defined by the nearest public roadway, or extension of such roadway alignment, or private roadway on a previously approved site plan, paralleling the shoreline of Biscayne Bay and the northern embayments of Dumfoundling Bay, Maule Lake and Little Maule Lake and the Intracoastal Waterway from NE 163 Street to the Broward County line. Where it is not feasible to follow existing road

configurations or extensions of those alignments, zoning district boundaries shall be used to define the boundary. The boundary line shall extend southward from the Broward County line to the northern boundary of Biscayne National Park. The Board of County Commissioners hereby designates all land areas shown on Exhibit 1, certified by the Clerk of the Board as a part of this ordinance and incorporated herein by reference, as the land areas lying within the Shoreline Development Review Boundary. The official map shall be transmitted to the custody of the director of the Dade County Building and Zoning Department, and copies of the official map shall be filed with the Clerk of the Board. The Clerk of the Board shall submit to each affected municipality a copy of the official map which may from time to time be altered, enlarged, added to, amended or deleted by ordinance.

11. Shoreline Setbacks the horizontal distance between the mean high water line, or cap of the bulkhead or top of the riprap and a side of the principal building or accessory structures.

12. Site Plan a document including the following information: location of lot lines and setbacks; location, shape, size and height of structures, decorative walls and entrance features; location of on-site and off-street parking, loading facilities, service areas, and waste collection areas; location of all streets, alleys, driveways, pedestrian ways, and sidewalks.

13. Visual Corridor an unobstructed area extending from a public right-of-way to the shoreline which is retained at grade and landscaped in such a manner as to permit and encourage views of the water.

14. Water Related Uses uses which are not directly dependent upon access to a water body, but which are designed to encour-

age views, public use and enjoyment of the water's edge, such as restaurants, outdoor cafes and boat rental facilities.

15. Water Dependent Uses a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to a water body for waterborne transportation, energy production or source of water.

Section 3 Shoreline Development Review Committee

1. There is hereby established a Biscayne Bay Shoreline Development Review Committee composed of seven members, six of whom shall be recognized professionals in one or more of the following fields: architecture, landscape architecture and urban design. The Board of County Commissioners shall invite the American Institute of Architects, the American Planning Association, the American Society of Landscape Architects, and the cities of Bay Harbor Island, Miami, Miami Beach, Coral Gables, Miami Shores, Bal Harbour, North Miami, North Miami Beach, North Bay Village, and Surfside to submit, within thirty (30) days from adoption of this ordinance, one recommended candidate for membership on this Committee. The seventh member and an alternate shall be appointed from a list of names submitted by the Builder's Association of South Florida. The Biscayne Bay Shoreline Development Review Committee may be expanded to nine members solely for purposes of considering development actions and plans which involve real property lying within the boundaries of any individual shoreline municipality. In such instances two additional members who are recognized professionals in one or more of the following fields: architecture, landscape architecture and urban design, may be appointed by the local governing body of the municipality and may participate as full members. The method of appointment and term of office of said additional members shall be determined at the discretion of the local governing body of the municipality. Said appointments may