

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 8, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to zoning in the unincorporated area; amending article XXXIII of chapter 33 and sections 33-1, 33-124.1, and 8CC-10 of the Code; revising regulations for parking and outdoor storage of equipment and vehicles in the Agricultural (AU) Zoning District and for other uses that are ancillary to and directly supportive of agriculture; defining the term ancillary; making technical changes

A substitute was presented and forwarded to the BCC with a favorable recommendation at the 6-10-21 County Infrastructure, Operations and Innovations Committee.

This substitute differs from the original version as stated in the Mayor's memorandum.

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz and Co-Sponsors Commissioner Danielle Cohen Higgins and Senator Javier D. Souto.



Geri Bonzon-Keenan
County Attorney


GBK/uw

Memorandum



Date: July 8, 2021

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Zoning Ordinance Revising Regulations for Parking and Outdoor Storage of
Equipment and Vehicles in the Agricultural (AU) Zoning district

The substitute differs from the original item in that it (1) revises the Mayor’s memorandum to clarify the distinctions between onsite and offsite storage of distribution vehicles and more clearly explain this item, (2) revises the ordinance to provide farm operations the ability to store additional distribution vehicles other than tractor trailers, and (3) revises the Mayor’s memorandum to conform to the above-mentioned ordinance changes.

Recommendation

It is recommended that the Board of County Commissioners (BCC) adopt the proposed ordinance revising regulations for parking and storage of equipment and vehicles in the Agricultural (AU) zoning district and for other uses that are ancillary to and directly supportive of agriculture.

Scope

Unincorporated Municipal Service Area (UMSA).

Delegation of Authority

The proposed ordinance delegates authority to the Director and to the Executive Council of the Developmental Impact Committee (DIC) to approve certain adjustments to the regulations administratively.

Fiscal Impact/Funding Source

Approval of this item is not anticipated to create a fiscal impact to the County, as the proposed changes will not require additional staffing resources or generate additional operational expenses.

Social Equity

Implementation of the proposed ordinance would better safeguard the rural and residential character of our agricultural lands by addressing the current proliferation of illegal commercial parking lots on agriculturally zoned properties while allowing owners or lessees of properties with agricultural operations (“agricultural producers”) to maintain vehicles and equipment that are integral to a farm operation. In particular, the proposed ordinance would allow agricultural producers to store, on the properties where the vehicles are primarily used or on contiguous properties (“onsite storage”), a specified number of vehicles for the purpose of distributing agricultural products.

The ordinance would also authorize agricultural producers to store distribution vehicles on the agricultural producer’s non-contiguous parcels (“offsite storage”) by obtaining a certificate of use (CU), provided the agricultural producer can demonstrate that its vehicles being stored are integral to the agricultural producer’s farm operation and that the offsite storage is therefore consistent with the agricultural character of the zoning district. The CU would allow the agricultural producer to aggregate various agricultural properties for purposes of increasing the amount of distribution vehicles that may be stored on one or more of the related properties for distribution of the qualified products (instead of storing the distribution vehicles on multiple lots to stay within the ordinance limits for each individual agricultural property). The cost of this one-time CU is already covered in the applicable fee schedule under an existing Implementing Order. This ordinance also revises applicable penalties and facilitates enforcement action against illegal commercial vehicle storage lots.

Track Record/Monitor

Nathan Kogon, Assistant Director, Development Services Division, Department of Regulatory and Economic Resources (RER).

Background

The proposed ordinance seeks to comprehensively update the current regulations pertaining to outdoor storage, which includes parking, of vehicles and equipment in the Agricultural District (AU). The purpose of this ordinance is to provide clarity to the public regarding where commercial vehicle storage is prohibited. The ordinance facilitates enforcement against illegal parking of Category 3 vehicles, particularly large trucks, and other large commercial vehicles, in the Redland and other agriculturally zoned areas, to ensure that the use of such large commercial vehicles is related to agricultural production and distribution of agricultural products and to ensure that agricultural properties are not illicitly turned into illegal commercial vehicle parking lots. The current regulations were established in 2019 by the adoption of Ordinance No. 19-101. Since then, implementation of these regulations has demonstrated that they are insufficient to address the problem of illegal commercial vehicle parking lots that deteriorate the rural character of agriculturally zoned areas.

This Board has previously recognized the need for parking of trucks and other large commercial vehicles, and similarly recognized a scarcity of permissible areas to park these vehicles throughout unincorporated areas. On October 21, 2020, this Board adopted Ordinance No. 20-76, which approved amendments to the County’s Comprehensive Development Master Plan (CDMP) provided in Evaluation and Appraisal Report-based Application No. 4 from the May 2019 Cycle (the “Plan Amendment”), to broaden the areas where trucks and other large commercial vehicles could be parked consistent with the CDMP. In furtherance of the Plan Amendment, this Board separately considered an ordinance expanding allowable areas and revising regulations for commercial vehicle storage in the agricultural (AU) zoning district. The Board adopted said ordinance on June 2, 2021 (Ordinance No. 21-42).

This ordinance works in conjunction with Ordinance No.21-42 by addressing the areas where commercial vehicle storage is prohibited. It regulates storage of trucks and other large

commercial vehicles, including allowances for onsite storage and for offsite storage, under certain circumstances explained more fully below:

- ❖ Farm equipment:
 - The ordinance defines and provides for storage of farm equipment consistent with the requirements of the Florida Statutes. The equipment storage allowances facilitate agricultural operations on agriculturally zoned properties. The ordinance also distinguishes farm equipment from “distribution vehicles”, which are generally commercial tractor-trailers and other such large vehicles.
- ❖ Onsite storage:
 - The ordinance allows the storage of at least one distribution vehicle, as defined in the ordinance (and explained below), on each property on which an agricultural use has been lawfully established, or an adjacent or contiguous property owned or leased by the same agricultural producer (“onsite storage”).
 - Additional distribution vehicles are allowed based on the gross acreage of the lot from which they are used to distribute qualified agricultural products, at a ratio of 0.4 vehicles per acre.
 - Additional distribution vehicles such as box trucks and flatbed trucks or a similar vehicle approved by the Director at the ratio of 1 vehicle per 5 acres up to a maximum of 5 additional vehicles.
 - An increase of up to 50% more vehicles may be approved by the Director for lots up to 15 acres in size, and by the Developmental Impact Committee Executive Council for lots over 15 acres in size, provided that the increase does not exceed 200 distribution vehicles.
- ❖ Offsite storage:
 - The ordinance also allows the storage of distribution vehicles that are integral to an agricultural operation on lots that are not adjacent to the agricultural operation from which they are used to distribute qualified products (“offsite storage”), provided that the vehicles are stored on a lot in the AU District that is owned by the same agricultural producer.
 - Offsite storage requires the owner/lessee to obtain a CU from the Department.
 - The CU corrects deficiencies in the current regulations by requiring the applicant to identify the link between the ownership of the properties where the agricultural uses have been lawfully established and the property where the vehicles will be stored, to demonstrate that distribution of qualified products is occurring, and to identify where the distribution vehicles will be stored.
- ❖ Active loading and unloading:
 - The ordinance recognizes that the local agricultural industry requires the use of commercial vehicles to distribute its products and to receive supplies for the farm operation. Accordingly, the ordinance allows the temporary parking of distribution vehicles in which qualified products are being actively loaded or unloaded, regardless of whether:
 - the vehicles exceed the maximum amount of distribution vehicles that may be stored based on gross acreage; and

- the distribution vehicles are owned or leased by someone other than the agricultural producer.
 - To streamline the enforcement process and avoid enforcement against legitimate producers and distribution vehicles, the ordinance also creates a presumption of compliance when the agricultural producer provides the Department certain records demonstrating that the vehicles are, or were, stored on the property to load or unload qualified products on the relevant dates; the presumption is subject to rebuttal by the Department.
 - The ordinance also allows, but does not require, packing houses and distribution facilities on properties of at least 150 acres (which may be an aggregate of separate parcels) to obtain a CU for a distribution vehicle loading area to park distribution vehicles that are either actively loading or unloading qualified products from that operation or are in a queue for such loading or unloading for up to 5 consecutive days. Agricultural producers who obtain, and operate in accordance with, such a voluntary CU are deemed to be operating in compliance with these regulations.
 - The ordinance also amends section 33-279.1 governing agricultural uses in Open Land Subareas 1 and 4, which include the Las Palmas area, to allow onsite storage of distribution vehicles, but not offsite storage, subject to these regulations.
- ❖ Enforcement:
- To disincentivize parking large numbers of vehicles in violation of the ordinance, the ordinance establishes criteria that create a presumption of illegal commercial vehicle storage use and makes clear that penalties may be applied for each particular vehicle for each day of violation.
 - The ordinance also revises the schedule of civil penalties in section 8CC-10 to provide increased civil penalties for repeat offenses of unlawful parking and storage of Category 1, 2, and 3 commercial vehicles in residential zoning districts and the AU District, and for repeat offenses of other unlawful uses in the AU District, establishing dollar amounts for second and third offenses within five years.

Additional key points and details of the proposed ordinance include the following:

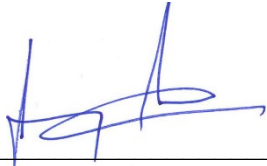
- The ordinance defines the following key terms:
 - Ancillary: a use or structure that is subordinate or subsidiary to the primary use on the same lot or parcel. An ancillary structure shall be smaller than the primary structure on the same lot or parcel. An ancillary use shall not exceed the size of the primary use, unless specifically authorized in this chapter. This new definition would apply throughout the zoning code.
 - Agriculture or agricultural: defined to include all forms of agricultural activity, including horticulture, floriculture, aquaculture, viticulture, pisciculture, apiculture, forestry, dairy farming, keeping or farming of livestock or poultry, and sod farming.

- Farm equipment: in accordance with sections 316.003 and 604.40 of the Florida Statutes, tractors or farm implements that are primarily used in agriculture.
- Farm supplies: materials, other than farm equipment, that are primarily designed for or primarily used in agriculture.
- Distribution vehicle: Any Category 3 vehicle, as defined in section 33-124.1, that is over twenty feet in length, is used to distribute qualified products and is an integral part of a farm operation. This classification includes truck tractors as defined in section 320.01, Fla. Statutes, regardless of length, and trailers or semitrailers as defined in section 316.003, Fla. Statutes. This classification excludes open commercial car carrier trailers of a double-decker design, meaning that such trailers are deemed to not be integral to a farm operation and thus cannot legally be stored on an agriculturally zoned property except where commercial vehicle storage is expressly permitted.
- Onsite storage: the vehicle is stored on the lot where it is primarily used for the distribution of qualified products or on a lot that is adjacent to or contiguous with the lot where it is primarily used, provided that all lots are owned or leased by the same person or legal entity.
- Offsite storage: the vehicle is stored on a lot that does not qualify for onsite storage. Offsite storage is only permitted on properties that are owned or leased by the same entity that lawfully uses the distribution vehicles, but the properties need not be contiguous.
- Owner: includes a lessee, and “own” includes a lease.
- Qualified product:
 - i. an agricultural good or product, including, without limitation, products of fish pools, nurseries, wineries, breweries, and distilleries, that is lawfully grown or cultivated on a property in Miami-Dade County; or
 - ii. an agricultural good or product that is packed, processed, or sold at a lawfully established packing house or other property where such packing, processing, or sale is permitted in accordance with this section; or
 - iii. goods or supplies used for or in conjunction with the cultivation, packing, or processing of the goods or products referenced in subparagraphs i. or ii. above.
- Storage: includes parking and maintenance and repair, including major overhauls and major repairs.
- The ordinance amends Section 33-279 to provide that regulations pertaining to the outdoor storage, maintenance, and repair of farm equipment, distribution vehicles, and other classified vehicles on properties zoned Agricultural (AU) District shall comply with the regulations in said section and those in proposed new section 33-279.3.

- The ordinance establishes section 33-279.3, providing for the outdoor storage of farm equipment, distribution vehicles, and other classified vehicles and the criteria creating a presumption of illegal commercial vehicle storage. In general, Section 33-279.3 provides:
 - For all vehicles, the outdoor vehicle storage use in the AU District shall be ancillary to an agricultural use in accordance with section 33-279, except that a lawfully established offsite storage use may be a primary use.
 - The outdoor storage of farm equipment is allowed both onsite and offsite, without any limitation on number, subject to a 50-foot setback from a public road.
 - The onsite and offsite storage of Category 1 and 2 vehicles used in agricultural operation is allowed. Collectively and in general, Category 1 and 2 vehicles include smaller commercial vehicles that are less than 8 feet in height but less than 20 feet in length. The ordinance would also provide that, in the AU District, vehicles that are more than 8 feet in height but less than 20 feet in length and are integral to a farm operation are treated as Category 2 vehicles.
 - The onsite outdoor storage of distribution vehicles (Category 3 vehicles) is allowed if the vehicle is used to distribute qualified agricultural products and is integral to a farm operation.
 - Category 3 vehicles that do not qualify as distribution vehicles may only be stored in the areas where commercial vehicle storage is expressly permitted.
 - The offsite storage of distribution vehicles is allowed subject to a one-time certificate of use (CU) and limited to distribution vehicles that are owned or leased by the owner/lessee of the storage lot and that serve an agricultural operation on a property that is owned or leased by the same owner/lessee.
 - There is no limitation on distribution vehicles parked on a lot where they are actively loading or unloading qualified products from or for a packing house or farm.
 - A voluntary CU for a distribution vehicle loading area, as described above, may be obtained.
 - The storage of distribution vehicles shall comply with:
 - Setbacks for outdoor onsite or offsite storage areas.
 - Maximum number of distribution vehicles allowed on a single lot:
 - ❖ 0.4 distribution vehicles per gross acre, provided that no more than 200 distribution vehicles are stored on a single lot. Fractions of 0.5 or greater shall be rounded up to the nearest whole number.
 - ❖ At least one distribution vehicle regardless of the lot size.
 - ❖ Additional farm vehicles for farm operation are permitted at 1 per 5 acres up to a maximum of 5. These vehicles expressly cannot be tractor trailers or semi-trucks.
 - ❖ An increase of up to 50% may be approved by the Director with consultation with the County’s Agricultural Manager for lots up to 15 acres in size, and by the DIC Executive Council for lots over 15 acres in size, provided that the increase does not exceed 200 distribution vehicles.

Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
Page No. 7

- ❖ A greater number may be approved as a special exception after public hearing by the Community Zoning Appeals Board (or this Board to the extent provided in section 33-314).
- ❖ Visual buffering of offsite, outdoor distribution vehicles storage area is required under certain conditions.



Jimmy Morales
Chief Operations Officer



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 8, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
7-8-21

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING IN THE UNINCORPORATED AREA; AMENDING ARTICLE XXXIII OF CHAPTER 33 AND SECTIONS 33-1, 33-124.1, AND 8CC-10 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING REGULATIONS FOR PARKING AND OUTDOOR STORAGE OF EQUIPMENT AND VEHICLES IN THE AGRICULTURAL (AU) ZONING DISTRICT AND FOR OTHER USES THAT ARE ANCILLARY TO AND DIRECTLY SUPPORTIVE OF AGRICULTURE; DEFINING THE TERM ANCILLARY; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. The above recitals are incorporated in this ordinance and are approved.

Section 2. Section 33-1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 33-1.- Definitions.

For the purpose of this chapter, the following definitions for terms used herein shall apply to all sections of this chapter unless the context clearly indicates otherwise:

* * *

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(5.1.2) Ancillary means that a use or structure is subordinate or subsidiary to the primary use on the same lot or parcel. An ancillary structure shall be smaller than the primary structure on the same lot or parcel. An ancillary use shall not exceed the size of the primary use, unless specifically authorized in this chapter.<<

* * *

Section 3. Article XXXIII of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

ARTICLE XXXIII. - AU, AGRICULTURAL DISTRICT

Sec. 33-279.- Uses permitted.

No land, body of water>>, or<< ~~[[and/or]]~~ structure shall be maintained, used>>,<< or permitted to be used, and no structure shall be hereafter maintained, erected, constructed, moved, reconstructed >>,<< ~~[[or]]~~ structurally altered >>,<< or be permitted to be maintained, erected, constructed, moved, reconstructed >>,<< or structurally altered ~~[[for any purpose]]~~ in an AU District>>,<< which is designed, arranged, or intended to be used or occupied for any purpose >>, except for one or more of the following uses<< ~~[[other than the following]]~~:

* * *

(2) Barns and sheds >>and<< ~~[[,]]~~ packing facilities, ~~[[and outdoor vehicle storage,]]~~ in accordance with the following conditions.

* * *

(b) Barns, sheds>>,<< or other buildings used for the storage of equipment, feed, fertilizer, produce>>,<< or other items ~~[[ancillary with the use permitted in this section. Such use]]~~ >>, as ancillary to a use permitted in this section and only in accordance with the following unless approved after public hearing or as otherwise provided in section 604.50, Florida Statutes, for nonresidential farm buildings:

- (1) Such buildings<< shall be >>related<< ~~[[accessory]]~~ to the agricultural use conducted on the property upon which the >>buildings<< ~~[[barns, sheds, or other buildings]]~~ are located ~~[[unless approved after public hearing and]]~~ >>; and
- (2) Such structures<< shall be >>located at least 50<< ~~[[fifty (50)]]~~ feet from any residence under different ownership and any RU or EU zoned property ~~[[unless approved after public hearing]]~~. >>It is provided, however, that a lawfully-established structure or building shall not be required to be removed based on any subsequent changes in ownership, zoning classification, or development on any adjacent property.<<

* * *

~~[(d) Outdoor vehicle storage (non residential property). Outdoor storage of vehicles and equipment associated with agricultural, aquacultural or horticultural production occurring on property(ies) other than the property on which the storage is located, provided the storage is not a principal use but is ancillary to a use permitted in this section other than residential, subject to all of the following conditions:~~

- ~~1. The storage of refrigerated containers is prohibited, unless such refrigeration is electrically powered. Storage within the containers or within other types of equipment is permitted only on a recurrent basis with each occurrence limited to a maximum of thirty (30) days.~~
- ~~2. Such equipment, vehicles and the area of storage shall be maintained in compliance with Section 33-4 of this chapter. The vehicles and equipment shall be maintained in operable condition at all times, except as otherwise provided herein.~~
- ~~3. Major repairs or overhaul shall be permitted on equipment or vehicles associated with agricultural, aquacultural or horticultural~~

- production.
4. ~~The equipment and vehicles shall be located on the property with the following setbacks:~~
 - a. ~~From front property line, fifty (50) feet;~~
 - b. ~~From rear property line, twenty five (25) feet;~~
 - c. ~~From interior side property line, fifteen (15) feet; and~~
 - d. ~~From side street property line, twenty five (25) feet.~~
 5. ~~In the Redland area (south of Eureka Drive (SW 184th Street) and west of the Urban Development Boundary), such storage shall be limited to equipment, vehicles, or both that is owned or leased by the occupant owner or occupant lessee of the site where the storage is located. This prohibition shall not apply to overnight parking of a vehicle that is loading or unloading agricultural products from or for a packing house or plant nursery on the site where the vehicle is parked.~~
- (e) ~~Outdoor vehicle storage (residential property). Outdoor storage of vehicles and equipment associated with agricultural, aquacultural or horticultural production occurring on property(ies) other than the property on which the storage is located, provided the storage is not a principal use but is ancillary to a residential use permitted in this section subject to all of the following conditions:~~
1. ~~Such storage shall be limited to equipment, vehicles, or both that is owned or leased by the occupant owner or occupant lessee of the site where the storage is located.~~
 2. ~~The location for such parked equipment and vehicles shall be in the rear yard or in the side yard to the rear of a line established by the front building line farthest from the street and set back to at least the rear building line. Such equipment and vehicles shall be set back from side property lines a distance at least equivalent to the required side setback for the principal building and shall be set back from the rear property line at least ten (10) feet.~~
 3. ~~Such equipment, vehicles and the area of storage shall be maintained in compliance with Section 33-4 of this chapter. The vehicles and~~

~~equipment shall be maintained in operable condition at all times, except as otherwise provided herein.~~

- ~~4. Major repairs or overhaul shall be permitted on equipment or vehicles associated with agricultural, aquacultural or horticultural production.~~
- ~~5. The number of vehicles and amount of equipment stored on a residential site is limited by Section 33-4 of this chapter. The storage of refrigerated containers is prohibited, unless such refrigeration is electrically powered. Storage within commercial vehicles or within other types of equipment is permitted only on a recurrent basis with each occurrence limited to a maximum of thirty (30) days.]]~~

* * *

(22) Uses ancillary to and directly supportive of agriculture.

(a) >>Definitions. For purposes of this subsection, subsection (23), and section 33-279.3, the following definitions shall apply:

(1) “Agriculture” or “agricultural” includes, without limitation: horticulture; floriculture; viticulture; aquaculture, including algaculture; pisciculture; apiculture; forestry; dairy farming; keeping or farming of livestock or poultry; and sod farming.

(2) “Farm equipment” means, in accordance with sections 316.003 and 604.40, Florida Statutes (2020), tractors or farm implements that are primarily designed for or primarily used in agriculture.

i. This term includes, without limitation, the following: farm tractor; all-terrain vehicle; combine; harvester; backhoe; front loader; plow; mower; implements of husbandry; irrigation trucks; and any other equipment that is used on a farm that is not required by the State of Florida to be registered as a motor vehicle.

- ii. This term includes such other implements as determined by the Director to be primarily designed for or used in agriculture and not for off-road construction, mining, utility, or industrial purposes.
 - iii. This term excludes: equipment designed for or used in off-road construction, mining, utility, and industrial purposes; and Category 3 vehicles as defined in section 33-124.1.
 - (3) “Farm supplies” means materials, other than farm equipment, that are primarily designed for or primarily used in agriculture.
- (b) General requirements. Except as provided in this article for outdoor storage, maintenance, and repair of farm equipment, distribution vehicles, and other classified vehicles, all uses enumerated in this subsection shall be subject to the following requirements:
 - (1) Each use shall only be authorized on a property that:
 - (i) is designated Agriculture on the Comprehensive Development Master Plan Land Use Plan Map; and
 - (ii) contains land that has been classified by the Miami-Dade County Property Appraiser as agricultural land.
 - (2) The property or business owner shall obtain from the Department an annually renewable certificate of use for each use.
- (c)<< The following uses shall be permitted ~~[[on property meeting the requirements of this section]]~~ when ancillary to an ongoing >>and lawfully established<< agricultural use:
 - (1) The packing, processing >>, or<< ~~[[and]]~~ sale of agricultural goods or products >>produced within<< ~~[[from]]~~ the State of Florida.
 - (2) Farm tours, farm meals, cooking classes, agricultural workshops, agricultural education, and agritourism, including U-Pick, pony rides, and horseback riding.

- (3) Farmers' markets, restricted to the sale of fruits, vegetables, live farm animals, and plants, as well as products derived directly therefrom.
- (4) Uses determined by the Director to be similar to those enumerated >>in subparagraphs (1)-(3)<< above. In determining similarity between a proposed use and the uses enumerated above, the Director shall be guided by whether the proposed use is ancillary to and directly supportive of agriculture.
- >>(5) The sale and service of farm equipment and farm supplies.
- (6) Outdoor storage, maintenance, and repair of farm equipment, distribution vehicles, and other classified vehicles, only in accordance with this subsection and with section 33-279.3; it is provided, however, that such use may be a primary use on a lot as provided therein.<<
- ~~[(b) The following uses that are directly supportive of agriculture shall be permitted on property meeting the requirements of this section and subject to [[the provisions of Chapter 24 of this Code:~~
 - ~~(1) The sale of farm supplies.~~
 - ~~(2) The sale and service of farm machinery and implements.~~
- ~~(e) All uses permitted in (a) and (b) above shall be subject to the following requirements:~~
 - ~~(1) The property shall be designated Agriculture in the Comprehensive Development Master Plan Land Use Plan Map and shall be utilized for a bona fide agricultural use as evidenced by an agricultural property classification approved by the Miami Dade County Property Appraiser's Office.~~
 - ~~(2) The property or business owner shall obtain a certificate of use for the ancillary agricultural use from the Department and promptly renew the same annually.]]~~
- (23) The sale of farm supplies and farm >>equipment<< [[~~machinery and implements~~]], together with general retail items, subject to the following requirements:

* * *

- (f) The sale of farm supplies >>including, without limitation, animal feed<<, farm >>equipment,<< and garden equipment~~[[, animal feed, and farm machinery and implements]]~~ shall account for at least 75 percent of the floor space of the sales area, including indoor and outdoor sales areas. The sale of general retail items, such as clothing, footwear, and other accessories, may account for the balance.

* * *

Sec. 33-279.1. - Agricultural Uses Permitted in Open Land Subareas Areas 1 and 4 of the Comprehensive Development Master Plan (CDMP).

>>(1)<< Notwithstanding any provisions to the contrary in ~~[[Chapter 33 or Chapter]]~~ >>this chapter or chapter<< 33B ~~[[of this Code]]~~, the agricultural uses provided in this >>section<< ~~[[Section]]~~ are permissible in areas zoned AU or GU with an AU trend in the Open Land Subareas 1 and 4, as designated in the Comprehensive Development Master Plan >>Land Use Plan Map<<, to the extent such uses are permissible under ~~[[Section]]~~ >>section<< 33-279 >>and 33-279.3<< ~~[[of this Code]]~~. No additional agricultural uses shall be permitted in these areas.

>>(a)<< The CDMP acknowledges that the lands within these Subareas have special hydrologic conditions and are prone to flooding, and these lands are subject to wetlands regulation (where applicable) >>and<< ~~[[and]]~~ stormwater management regulation pursuant to ~~[[Chapter]]~~ >>chapter<< 24 and floodplain regulations pursuant to ~~[[Chapter]]~~ >>chapter<< 11C ~~[[of this Code]]~~.

>>(b)<< The County does not provide flood protection for properties in these areas, nor does the County have plans to provide flood protection in the future. Property owners should consider the risks of flooding in these areas.

>>(2) The following uses are permissible under the conditions set forth below:<<

- (a) Residential uses are only permitted to the extent

otherwise allowed under this ~~>>code<<~~ ~~[[Code]]~~. This ~~[[Section]]~~ ~~>>section<<~~ does not provide any additional residential uses.

- (b) The following uses are permissible, to the extent that such uses are permissible under Section 33-279 ~~[[of this Code]]~~:
 - * * *

- (c) ~~>>~~ Outdoor storage, maintenance, and repair of farm equipment, distribution vehicles, and other classified vehicles, is permissible to the extent such uses are permissible under section 33-279.3 for onsite storage.

- (d)~~<<~~ The following uses are permissible only upon approval after public hearing, as provided in ~~[[Section]]~~ ~~>>section<<~~ 33-279 ~~[[of this Code]]~~, and for floodplain management purposes, the application package must include a site plan which indicates 1) existing and proposed locations of structures, fences or buffers; 2) onsite stormwater retention; and 3) waste stream management.
 - * * *

>>Sec. 33-279.3- Outdoor storage of farm equipment, distribution vehicles, and other classified vehicles; presumption of illegal commercial vehicle storage.

- (1) Outdoor storage, maintenance, and repair of farm equipment, distribution vehicles, and other classified vehicles is permitted in the AU district, only in accordance with section 33-279 and this section.

- (2) Definitions. For purposes of this section, the following definitions shall apply:

- (a) “Distribution vehicle” means any Category 3 vehicle, as defined in section 33-124.1, that is used to distribute qualified products and is an integral part of a farm operation. It is provided, however, that open commercial car carrier trailers of a double-decker design shall not be construed to qualify for this classification.

- (b) “Onsite storage” means:
 - i. The vehicle is stored on the lot where it is

- i. Category 1 and 2 vehicles that are used in an agricultural operation may be stored without limitation:
 - 1. where ancillary to an authorized agricultural use; or
 - 2. where located offsite, in compliance with the setback and ownership provisions of subsections (5) and (8) below.
- ii. Category 1 and 2 vehicles that are not used in an agricultural operation shall be subject to the regulations in 33-124.1 applicable to storage of vehicles on residentially zoned properties.
- iii. Category 3 vehicles, other than distribution vehicles as allowed pursuant to this section, shall only be stored where commercial vehicle storage is permitted.
- iv. Notwithstanding section 33-124.1 or any other provision to the contrary, a vehicle that is more than 8 feet in height from the ground but less than 20 feet in length, other than a truck tractor as defined in section 320.01, Fla. Statutes, shall be treated as a Category 2 vehicle for purposes of this section.
- (c) The primary use of all distribution vehicles shall be the distribution of qualified products.
- (d) Each distribution vehicle shall be maintained in operable condition at all times, except when undergoing repairs.
- (e) A vehicle or container with a refrigeration unit shall not be operated as a refrigeration unit unless the refrigeration is powered by electricity. It is provided, however, that this restriction shall not apply to any distribution vehicle operating in compliance with paragraph (g) below.
- (f) A certificate of use is required for offsite storage of distribution vehicles but not for onsite storage.
- (g) Nothing in this section shall be construed to limit a distribution vehicle from being parked on the lot where the distribution vehicle is actively loading or unloading qualified products from or for a packing house or farm, including where such vehicle is operating a refrigeration unit.
 - i. *Presumption of compliance.* A distribution

vehicle shall be presumed to comply with this paragraph, subject to rebuttal by the Department, where the property owner presents to the Department: executed contracts, manifests, bills of lading, load tenders, confirmations of tender, proofs of delivery, payment records, or any combination thereof, to establish that the vehicles are, or were, stored on the property to load or unload qualified products on the relevant dates.

ii. Voluntary certificate of use for a distribution vehicle loading area. A distribution vehicle shall be deemed to comply with this paragraph where the property owner has obtained from the Department a certificate of use (CU) for a distribution vehicle loading area in accordance with the following, or, as determined by the Department, has previously obtained a CU for a similar use based on substantially similar information:

1. The distribution vehicle loading area is for parking of distribution vehicles that are actively loading or unloading qualified products from or for a packing house or farm, or that are in queue for such loading or unloading for up to five consecutive days.
2. The CU application depicts the location of distribution facilities for<< >>packing houses or farms (“agricultural operations”)<<² [~~nurseries~~] >>comprising a minimum of 150 acres, in the aggregate. The facilities may include any building, lean-to, pole barn, or open area utilized by the<< >>agricultural operation<< [~~nursery~~] >>in the course of distributing qualified products, storage of farm vehicles, distribution

² The differences between the substitute and the original item are indicated as follows: Words double stricken through and/or [[double bracketed]] are deleted, words double underlined and/or >>double arrowed<< are added.

vehicles for qualified products, equipment, coolers, refrigerated containers, packing crates, or other items used in the shipping operation, and parking of any vehicles including employee cars and trucks used by the << [[nursery]] >>owner <>> of the agricultural operation <<>>.

3. The CU application includes a site plan or sketch, subject to the Department's approval, that shall:
 - a. identify the lot(s) where the distribution facility is located.
 - b. identify the location and size of the loading area in accordance with the applicable setback standards; and
 - c. indicates the location and type of visual buffering, where required.

(h) Storage of vehicles pursuant to this section shall not be subject to the off-street parking requirements set forth in article VII, except for section 33-126 or as specifically provided for herein.

(5) *Setbacks for outdoor storage area.*

- (a) The outdoor storage area for onsite or offsite storage of distribution vehicles shall comply with the following setbacks:
 - i. 50 feet from the front property line;
 - ii. 25 feet from the rear property line;
 - iii. 15 feet from the interior side property line; and
 - iv. 25 feet from the side street property line.
- (b) Notwithstanding the foregoing, no setback for storage of distribution vehicles shall be required from the property line of an adjacent or contiguous property where:
 - i. the adjacent or contiguous property is owned by the same person or legal entity that is legally storing the distribution vehicles; or
 - ii. where the owner of the adjacent or contiguous property provides a written

waiver on a form acceptable to the Director.

(6) Maximum number of distribution vehicles.

(a) Amount allowed as of right. Unless a greater number is approved as provided in this subsection, the maximum number of distribution vehicles allowed on a single lot shall be as follows:

i. No more than 0.4 distribution vehicles are permitted per gross acre, provided that no more than 200 distribution vehicles are stored on a single lot, regardless of whether the storage is onsite or offsite. Fractions of 0.5 or greater shall be rounded up to the nearest whole number.

ii. Notwithstanding the foregoing, at least one distribution vehicle, including a semitrailer, truck-tractor, or combination thereof, shall be permitted regardless of lot size.

iii. Trailer or semitrailer portions may be stored separately from truck tractors. In that event, the maximum permitted number of distribution vehicles shall be calculated based on the trailer or semitrailer portions. It is provided, however, that where the number of truck tractors exceeds the number of trailers or semitrailers, each excess truck tractor shall be counted as a distribution vehicle.<<

>>iv. Notwithstanding the foregoing, additional distribution vehicles beyond the 0.4 per acre limitation above are permitted at a ratio of one vehicle for each 5 acres of property, up to a maximum of 5 additional vehicles, only in accordance with the following:

1. The additional distribution vehicles are limited to: box trucks; flatbed trucks; and other similar vehicles as approved by the Director in consultation with the County's Agricultural Manager.

2. Other than the distribution vehicles as permitted in subparagraph 1. Above, semitrailers, as defined in section 316.003, Fla. Stat., that are over 20 feet in length, and truck tractors, as defined in section 320.01, Fla. Stat.,

shall not qualify for this allowance.<<

>>(b) Administrative adjustments. Where the applicant<< >>demonstrates a need for additional distribution vehicles and<< >>demonstrates that approval will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties, will not have an adverse effect on physical or environmental conditions in the neighborhood or district, and will be otherwise compatible with the surrounding land uses, an increase of up to 50 percent above the number of distribution vehicles permitted by paragraph (a)i. and ii. may be approved as follows:

i. For lots up to<< >>15<< [[10]] >>acres, by the Director<< >>after receiving a recommendation from the County's Agricultural Manager<< >>; and

ii. For lots above<< >>15<< [[10]] >>acres, by the Executive Council of the Developmental Impact Committee (DIC) in accordance with section 33-303.1, provided that the total increase does not exceed 200 distribution vehicles.<<

>>iii. The number of additional distribution vehicles allowed pursuant to subparagraph (a)iv. shall not be eligible for administrative adjustment.<<

>>(c) Special exception. A greater number of distribution vehicles is permitted if approved as a special exception after public hearing in accordance with section 33-311.

(7) Visual buffering of offsite outdoor storage area for distribution vehicles.

(a) Visual buffering shall be required where an offsite outdoor storage area for distribution vehicles is located within 500 feet of the closest property line of an adjacent property that is under different ownership, and which contains a residence with a certificate of occupancy issued on or before the effective date of this ordinance.

(b) Visual buffering shall be provided by screening the

storage area from the adjacent property with a buffer consisting of shrubs that normally grow to a minimum height of 6 feet.

- i. Shrubs used as a buffer shall be a minimum of 30 inches in height at time of planting and shall be planted at a maximum average spacing of 36 inches on center, or a minimum of 36 inches in height at time of planting and planted at a maximum average spacing of 48 inches on center.
- ii. The buffer shall form a continuous screen within one year after planting.

(8) Offsite storage only allowed under same ownership. Offsite storage shall be limited to distribution vehicles that:

- (a) are owned by the occupant of the lot used for storage of the distribution vehicles; and
- (b) provided that the same person or entity, which may include a corporate parent or subsidiary, owns or leases the AU district lot from where the qualified products are primarily distributed by the distribution vehicles.

(9) Certificate of use for offsite storage. Offsite storage of distribution vehicles shall require a certificate of use, as provided herein.

- (a) The application for certificate of use shall include the following:
 - i. Proof of satisfaction of the ownership requirements of subsection (8) above.
 - ii. A site plan or sketch, subject to the Department's approval, that shall:
 - 1. identify the AU district lot from where the qualified products shall be primarily distributed by the distribution vehicles; and
 - 2. identify the location and size of the storage area in accordance with the applicable setback standards; and
 - iii. The type and maximum number of distribution vehicles to be stored; and
 - iv. The location and type of visual buffering, where required.
- (b) The certificate of use is conditioned upon continuous compliance with the requirements herein, shall be

conditioned as such, and may therefore be revoked if the property owner fails to provide evidence upon request that the distribution vehicles are being stored and used to transport qualified products in conformity with the requirements of this section.

(10) *Presumption of illegal use.*

(a) An unlawful commercial vehicle storage use shall be presumed to have been created in violation of section 33-279 when one or more of the following conditions are observed:

- i. The vehicles stored on the property do not meet the requirements of section 33-279 or this section.
- ii. The number of vehicles exceeds the limitations set forth in this section.
- iii. An agricultural use has not been lawfully established on the property where onsite storage is located.
- iv. A property that contains an offsite distribution vehicle storage use does not have a certificate of use or fails to comply with the conditions of a lawfully issued certificate of use.

(b) An unlawful salvage yard or junkyard shall be presumed to have been created in violation of sections 33-13 or 33-15 where more than two distribution vehicles being stored are not operable. Vehicles shall be presumed to be in violation of this section if repairs are not completed within 30 days of an inspection by the Department.

(c) The absence of any factor set forth in paragraph (a) or (b) above shall not create any presumption.

(d) *Rebutting the Presumption.* The property owner may rebut the presumptions set forth in this subsection by complying with all of the following:

- i. The owner submits a notarized affidavit on a form acceptable to the Director attesting:
 - 1. that he or she owns the vehicle stored on the property or that the vehicle is used for an agricultural use on the property where it is stored; and
 - 2. where applicable, that the vehicle is operable or is actively under repair but necessary parts are not available

at the time of reinspection.

- ii. The owner allows the Department to access the property for the purpose of verifying the ownership, purpose, and operability of the vehicles being stored on the property.
- iii. The property owner submits:
 - 1. Copies of the Vehicle Registration from the Florida Department of Motor Vehicles, or other state where applicable, and proof of insurance, for all vehicles identified as being stored on the property; and
 - 2. A certificate of use with accompanying site plan approved in accordance with this article for an offsite storage use; and
 - 3. Manifests or bills of lading showing that the products hauled by vehicles identified as being stored on the property are primarily qualified products; and
 - 4. Proof of legally establishing an agricultural use on the property where the storage is located or, for offsite storage, on the property where the vehicles are used; and
 - 5. Proof that the same person or entity that owns or leases the distribution vehicles also owns or leases the property used for storage of the distribution vehicles as well as the property from where the qualified products are distributed by the distribution vehicles.
 - 6. Where the presumption is based on the storage area exceeding the limitations of this section, a site plan or survey showing that the storage area is contained within the maximum area allowed by this section.
 - 7. Where applicable, proof that the vehicles are operable.

(11) Enforcement.

- (a) Each vehicle parked or stored in violation of these

provisions constitutes a separate offense, as does each day during any portion of which a violation occurs.

(b) Notwithstanding any other provision of this code, civil violation notices may be issued to the real property owner where the violation occurs and to the owner of the vehicle stored in violation of these sections.<<

* * *

Section 4. Section 33-124.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 33-124.1. - Parking of ~~[[commercial]]~~ >>certain categories of<< vehicles in residential or agricultural zones.

(a) The following are hereby defined as commercial vehicles for the purpose of this section:

>>1.<< *Category 1.* A vehicle that is>>:<< a taxicab>>:<<[[.]] a limousine under >>20<< [[~~twenty (20)~~]] feet in length>>:<< or any passenger vehicle truck or van with a maximum height of >>8<< [[~~eight (8)~~]] feet from the ground marked with a sign, letters, identification numbers or emblem advertising or associating it in any way with a commercial enterprise other than those which identify the vehicle maker or dealer.

>>i.<< A sport utility vehicle marked with a sign, letters, identification numbers or emblem advertising or associating it in any way with a commercial enterprise, other than those which identify the vehicle maker or dealer, shall be considered as a Category 1 vehicle.

>>ii.<< For purposes of this section, a passenger vehicle bearing an emblem or lettering of a government entity shall also be considered as a Category 1 vehicle.

>>2.<< *Category 2.* A vehicle >>that is 8<< [[~~eight (8)~~]] feet or less in height that displays externally stored or mounted equipment>>:<< either in a fixed or temporary manner>>, that bears the indicia<< [[~~which is visible~~]] of a commercial activity>>.

vehicles may be parked at a residence.

3. In residentially zoned districts, only one Category 2 vehicle may be stored or parked >>at a residence,<< provided that it is kept within an enclosed garage or behind the front building line within a completely enclosed, opaque fence, screening wall or landscaping 6 feet in height at least >>10<< ~~[[ten (10)]]~~ feet from the rear property line. If a Category 2 vehicle is so stored or parked, then only one Category 1 vehicle may also be stored or ~~parked~~ at such residence.
4. For residential properties of four ~~[[4]]~~ or more units, the parking allowances provided for herein shall be applied as to each unit.
5. Storage or parking of Category 3 vehicles are prohibited in all residentially zoned districts.
6. The temporary parking of a Category 2 or 3 vehicle in front of the building line or in front of the buffer screen shall only be permitted for the purpose of loading or unloading of materials or persons or engaged in providing a commercial service at the premises or for the purpose of the driver to make a temporary convenience stop at the residence. However, a temporary or convenience stop shall be limited to no more than one hour in any 24-hour period.

(c) Parking >>or storage<< of ~~[[certain commercial]]~~ >>classified in this section<< on the right-of-way is prohibited in residential zones as follows:

1. In areas zoned residential districts, it shall be unlawful for Category 2 or 3, vehicles, as herein defined, to be otherwise parked on the public right-of-way, unless actively engaged in the loading or unloading of materials or persons or engaged in providing a commercial service.

>>2.<< Examples of providing commercial services include, but are not limited to, removal of disabled vehicles from private or public property presence at a construction site, delivery of goods, repair of household appliances>>1<< and cleaning of household furniture.

(d) Violations of these provisions are punishable as follows:

1. Any violation of this section is punishable by a civil

fine >>as provided in chapter 8CC.<< ~~[[of five-hundred dollars (\$500.00)]]~~.

>>i. Each vehicle parked or stored in violation of these provisions constitutes a separate offense, as does each day during any portion of which a violation occurs.

ii. Notwithstanding any other provision of this code, civil violation notices may be issued to the real property owner where the violation occurs and to the owner of the vehicle stored in violation of these sections.<<

>>2.<< Upon a repeat violation of subsection 33-124.1(c), in addition to civil penalties, such vehicle may be towed or immobilized until all outstanding violations and enforcement costs have been paid. After 35 days of storage or immobilization, such vehicle may be disposed of pursuant to the provisions contained in Section 713.585, Florida Statutes.

>>3.<< Any enforcement officer is hereby authorized to secure the assistance of the Miami-Dade Police Department to effect enforcement of these provisions.

>>4.<< ~~[[2-]]~~ Whoever opposes, obstructs or resists an enforcement officer in the discharge of duties as provided in this section, upon conviction, shall be guilty of a misdemeanor of the second degree and shall be subject to punishment as provided by law.

Section 5. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby

amended to read as follows:

Sec. 8CC-10. Schedule of civil penalties.

The following table shows the sections of this >>code<< ~~[[Code]]~~, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended.

The “descriptions of violations” below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed ~~[[Code]]~~ sections >>of this code<<, except to the extent that different types of violations of

the same ~~[[Code]]~~ section may carry different civil penalties. For each ~~[[Code]]~~ section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this ~~>>chapter<<~~ ~~[[Chapter 8CC]]~~, regardless of whether all activities proscribed or required within that particular section are described in the “Description of Violation” column. To determine the exact nature of any activity proscribed or required by this ~~[[Code]]~~, the relevant ~~[[Code]]~~ section must be examined.

Code Section	Description of Violation	Civil Penalty
	* * *	
33-124.1>>(b)<<	>>Unlawful parking or storage<< [[Parking]] of >>Category 1, 2, or 3<< commercial vehicles in residential [[or agricultural]] zones: >>First offense Second offense within five years Third or subsequent offense within five years	500.00 <u>1,000</u> <u>2,500</u> <<
[[33-124.1(b)2	Unlawfully parking, storing or otherwise keeping more than two (2) Category 1 commercial vehicles in a residential zoned district	500.00
33-124.1(b)3	Unlawfully parking, storing or otherwise keeping a Category 2 commercial vehicles in a residential zoned district	500.00
33-124.1(b)5	Unlawfully parking, storing or otherwise keeping a Category 3 commercial vehicle in a residential zoned district	500.00]]
	* * *	
33-279	Unauthorized use in an agricultural district >>First offense<< >>Second offense within five years	500.00 <u>1,000</u>

	<u>Third or subsequent offense within five years</u>	<u>2,500</u>
<u>33-279.1</u>	<u>Unauthorized use in Open Land Subareas 1 or 4: First offense</u>	<u>500.00</u>
	<u>Second offense within five years</u>	<u>1,000</u>
	<u>Third or subsequent offense within five years</u>	<u>2,500</u>
<u>33-279.3</u>	<u>Unlawful outdoor storage or parking of farm equipment, distribution vehicle, or other classified vehicle: First offense</u>	<u>500.00</u>
	<u>Second offense within five years</u>	<u>1,000</u>
	<u>Third or subsequent offense within five years</u>	<u>2,500<<</u>
* * *		

Section 6. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 7. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 8. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Handwritten initials 'GBK' in blue ink above a handwritten signature in black ink.

Prepared by:

Dennis A. Kerbel