

# MEMORANDUM

Agenda Item No. 4(E)

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

**DATE:** July 20, 2021

**FROM:** Geri Bonzon-Keenan  
County Attorney

**SUBJECT:** Ordinance relating to zoning and agricultural preservation in the incorporated and unincorporated areas; amending article XXXIII of chapter 33 of the Code; establishing Agricultural Lands Purchase of Development Rights (ALDPR) Program, ALPDR Trust Fund, and Agricultural Transfer of Development Rights (ATDR) Program; providing for applicability of ATDR Program in the incorporated areas; amending section 33B-45; providing for use of severable use rights in the RU-3, four unit apartment house zoning district and in zoning districts that provide for mixed uses; making technical changes

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The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Commissioner Danielle Cohen Higgins.



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Geri Bonzon-Keenan  
County Attorney


GBK/smm

# Memorandum



**Date:** July 20, 2021

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

**From:** Daniella Levine Cava  
Mayor 

**Subject:** Ordinance Creating an Agricultural Transfer of Development Rights (ATDR) program; Creating an Agricultural Lands Purchase of Development Rights (ALPDR) Program; Establishing an ALPDR Trust Fund; and Modifying the Severable Use Rights Program

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## **Recommendation**

It is recommended that the Board of County Commissioners (Board) amend Section 33B-45 of the Code of Miami-Dade County (Code) related to the Severable Use Rights (SUR) program; create Section 33-284.2 of the Code to create an Agricultural Lands Purchase of Development Rights (ALPDR) program; create Section 33-284.3 of the Code to establish an ALPDR Trust Fund; and create Section 33-284.4 of the Code to establish an Agricultural Transfer of Development Rights (ATDR) program.

## **Scope**

The proposed Agricultural Lands Purchase and Development Rights program applies to areas within the land use regulatory jurisdiction of Miami-Dade County and within any municipality that allows for such use. The proposed Agricultural Land Purchase of Development Rights program allows for the purchase of development rights on agricultural land countywide.

## **Delegation of Authority**

The proposed ordinance delegates certain functions of administering the ATDR and ALPDR programs to the County Mayor or County Mayor’s designee. For the ALPDR program, the administrative activities include evaluating ALPDR applications for compliance with the program criteria, coordinating appraisals, negotiating the purchase price and terms and conditions of the conservation easement in accordance with established County procedures, determining whether a property is eligible and should be recommended to the Board of County Commissioners for participation in the ALPDR Program, and providing a financial audit of the ALPDR Trust Fund. For properties that are subject to ALPDR or ATDR conservation easements, such administrative activities include approval of new farm structures, requests for new agricultural uses that were previously prohibited by state or federal law after such time as the prohibition ceases, and annual monitoring to ensure compliance with the terms and conditions of the conservation easement.

## **Social Equity Statement**

The proposed ordinance promotes the preservation of agricultural land which can increase local food options and support agricultural employment. No other specific social equity impact or benefit can be determined at this time.

### **Fiscal Impact/Funding Source**

Costs associated with administration of the ATDR program will be covered by application fees. Administration of the ALPDR program and trust fund will be covered by the administrative fee assessed on contributions to the trust fund. Therefore, the proposed ordinance is not expected to have a fiscal impact on Miami-Dade County.

### **Track Record/Monitor**

The ATDR and ALPDR programs will be administered by County staff designated by the County Mayor to serve as the Program Administrator.

### **Background**

The proposed ordinance provides for changes to the Code aimed at preserving agricultural land and providing options for satisfying requirements contained in the County’s Comprehensive Development Master Plan (CDMP) for the preservation of agricultural land in exchange for impacts to agricultural land resulting from development applications. This is accomplished through establishment of a Transfer of Development Rights program and establishment of a new Purchase of Development Rights program and trust fund. These programs are detailed below:

#### **Agricultural Transfer of Development Rights Program**

The CDMP text requires that, by March 2021, Miami-Dade County shall adopt and implement land development regulations establishing a Transferrable Development Rights (TDR) program that provides for the preservation of agricultural land. The proposed TDR program is a willing seller program whereby a property owner of agriculturally designated land voluntarily proffers a conservation easement limiting uses on the land to agricultural production and nonresidential farm buildings in exchange for a development bonus on land that is designated for urban land uses or in conjunction with an application to approve redesignation of land to an urban land use. The rights are transferred through a private agreement between the agricultural landowner and the purchaser of the transferrable right(s), however, legal instruments are recorded, in favor of the County, to sever the rights on the agricultural parcel and apply them to the development parcel.

Agricultural properties eligible to participate in the TDR program include those that are designated Agriculture on the CDMP Land Use Plan map; have undeveloped residential density available; and are not subject to any unresolved enforcement activity by any governmental entity. The application of the TDRs to development parcels inside of the Urban Development Boundary is similar to the County’s current SUR program. It allows for the TDRs to be applied in areas within the land use regulatory jurisdiction of Miami-Dade County as well as municipalities that allow for the application of TDRs.

#### **Agricultural Purchase of Development Rights Program and Trust Fund**

Purchase of Development Rights (PDR) programs involve the purchase of specified development rights on agricultural properties but do not involve the application of the rights to another property. The County currently implements a PDR program that was initially authorized as part of the Building Better Communities General Obligation Bond (BBC-GOB) Program as

approved by voters in 2004. The details of the County’s current PDR Program were initially outlined in Resolution No. R-1036-07 and later refined in Resolution No. R-1016-09.

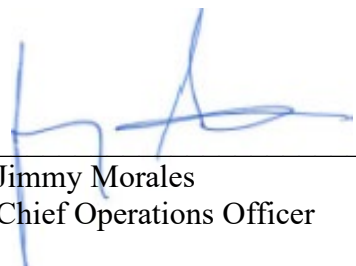
The proposed ordinance creates a new Agricultural Lands Purchase of Development Rights (ALPDR) program that is similar to the County’s current program. The program established by the proposed ordinance will be used for purchases that involve expenditures from the ALPDR Trust Fund. Key differences from the PDR program outlined in Resolution No. R-1016-09 and the program established by the proposed ordinance are as follows:

1. the proposed program requires eligible properties to have a greater percentage of the land area devoted to active agricultural use;
2. the proposed program provides greater flexibility in the timeframes and procedures for processing PDR applications; and
3. the proposed program limits use permitted under the ALPDR conservation easement to specified agricultural uses.

To be eligible for participation in the PDR Program, the property must: (i) be located entirely in Miami-Dade County; (ii) be designated Agriculture on the CDMP Land Use Plan map; (iii) have undeveloped residential density available; (iv) have at least 85 percent of its land area devoted to direct agricultural production; (v) be suitable for agricultural production; (vi) not be developed for a use that would otherwise be prohibited by the ALPDR conservation easement; and (vii) not be subject to any unresolved enforcement activity by any governmental entity.

Implementation of the Purchase of Development Rights Trust Fund will be accomplished through approval of a separate resolution creating Implementing Order 4-139.

In addition to the changes noted above, the proposed ordinance amends the current SUR program, as contained in Chapter 33B of the Code, to allow SURs to be applied within the RU-3 Zoning District, Mixed Use Corridor Districts, as well as all Urban Center and Urban Area Districts. This change will provide consistency with the standards for application of the rights transferred through the proposed ATDR program.



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Jimmy Morales  
Chief Operations Officer



## MEMORANDUM

(Revised)

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

**DATE:** July 20, 2021

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 4(E)

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. 4(E)  
7-20-21

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO ZONING AND AGRICULTURAL PRESERVATION IN THE INCORPORATED AND UNINCORPORATED AREAS; AMENDING ARTICLE XXXIII OF CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ESTABLISHING AGRICULTURAL LANDS PURCHASE OF DEVELOPMENT RIGHTS (ALDPR) PROGRAM, ALPDR TRUST FUND, AND AGRICULTURAL TRANSFER OF DEVELOPMENT RIGHTS (ATDR) PROGRAM; PROVIDING FOR APPLICABILITY OF ATDR PROGRAM IN THE INCORPORATED AREAS; AMENDING SECTION 33B-45; PROVIDING FOR USE OF SEVERABLE USE RIGHTS IN THE RU-3, FOUR UNIT APARTMENT HOUSE ZONING DISTRICT AND IN ZONING DISTRICTS THAT PROVIDE FOR MIXED USES; MAKING TECHNICAL CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board desires to accomplish the purposes set forth 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.** Article XXXIII of Chapter 33 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**ARTICLE XXXIII. - AU, AGRICULTURAL DISTRICT**

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<sup>1</sup> 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.

>>**Sec. 33-284.2. – Agricultural Lands Purchase of Development Rights (ALPDR) Program.**

(A) *Legislative findings, intent, and purpose.*

(1) This Board hereby declares and finds that Miami-Dade County's agricultural areas are a unique and economically vital resource to the community. These areas support a locally and nationally important agricultural industry, as the County's unique climate makes it possible to produce fresh agricultural commodities throughout the year, even when winter prevents agricultural production in other regions of the United States. In addition to economic benefits, the County's agricultural areas may provide the community with significant open space and natural resource benefits, including a rural character, scenic beauty, cultural heritage, hunting, and other recreational opportunities. The agricultural areas may also provide environmental benefits, including watershed protection, aquifer recharge, and wildlife habitat. Protecting and enhancing these agricultural areas and promoting their economic, recreational and open space, and environmental benefits increases the overall quality of life for County residents and makes the County an attractive place to live, work, and visit.

(2) In furtherance of preserving the benefits of the County's agricultural areas to County residents and visitors and protecting the supply of valuable agricultural lands, it is the policy of Miami-Dade County to limit the development of viable private agricultural properties by purchasing or incentivizing the granting of conservation easements by willing sellers of viable private agricultural property.

(3) This policy will be implemented through the administration of the Agricultural Lands Purchase of Development Rights (ALPDR) Program set forth in this section and the Agricultural Transfer of Development Rights (ATDR) Program set forth in section 33-284.4.

(a) The goals of the ALPDR and ATDR Programs are to: preserve farmland and support viable farm operations; protect open space; and maintain the rural character and quality of life of the County's agricultural areas.

- (b) The ALPDR and ATDR Programs involve only willing buyers and willing sellers.
- (c) Nothing in this article shall be construed to require the County to purchase development rights from any landowner.
- (4) This section also implements Land Use Element Policy LU-8H of the County's Comprehensive Development Master Plan (CDMP), which calls for applications to expand the Urban Development Boundary to provide for the preservation of agricultural land to offset the application's impacts on agriculturally-designated land.
- (5) This section shall not be construed to preclude the County from undertaking acquisitions pursuant to other programs, including, but not limited to, the purchase of development rights program adopted pursuant to Resolution No. R-1016-09, as may be amended; but only acquisitions made pursuant to this section may use funds from the ALDPR Trust Fund established in section 33-284.3.

(B) Eligible properties.

- (1) For purposes of this section, "participating property" means a parcel or portion thereof that is to be preserved in accordance with this section.
- (2) To participate in the ALPDR Program, a participating property must meet all of the following criteria:
  - (a) It is located entirely in Miami-Dade County.
  - (b) It is designated Agriculture on the CDMP Land Use Plan map.
  - (c) It is legally entitled to be developed with residential uses, but such uses remain undeveloped.
  - (d) It is suitable for agricultural production.
  - (e) At least 85 percent of its land area contains direct agricultural production.
  - (f) It does not contain any uses that would otherwise be prohibited by the conservation easement required by this section.
  - (g) The property owner is not subject to, and the participating property is not associated with:
    - (i) any unpaid or unresolved code enforcement matters as set forth in section 8CC-7(d); or



- (ii) any other unresolved enforcement matters brought by any local, state, or federal governmental entity.
- (2) Notwithstanding any provision to the contrary, land shall not be eligible for the ALPDR Program if the United States of America, the State of Florida, a local municipality, or an agency or instrumentality of any of those entities has an ownership interest in or otherwise manages or controls such land.

(C) *Program procedures.* The following procedures shall govern the ALPDR Program.

- (1) *Administrator.* The person or persons designated by the County Mayor to administer the ALPDR Program shall be referred to herein as the Administrator.
- (2) *Written application required.* A property owner who wishes to participate in the ALPDR Program shall submit a written application in a form acceptable to the Administrator.
- (3) *Evaluation factors.* After an application is submitted for a property, the Administrator may, in consultation with the Director and, where the Administrator deems appropriate, the Director of the University of Florida/Miami-Dade County Cooperative Extension Service, evaluate the property for compliance with the eligibility criteria set forth in subsection (B) above and assess whether the property furthers the purposes of this section based on the following factors:
  - (a) The value of the land for agricultural practices, including property size, soil type, and historical agricultural use;
  - (b) Proximity to urban development;
  - (c) Proximity to other agricultural properties;
  - (d) Proximity to environmentally sensitive or protected lands; and
  - (e) Other factors affecting the use of the property for agricultural production.
- (5) *Appraisal and negotiation.* If the Administrator determines that the property is worth considering for participation in the ALPDR Program based on the foregoing evaluation, the Administrator shall coordinate an appraisal of the property and negotiate the proposed price and terms and conditions of the proposed conservation easement in accordance with

- the County's standard practices for acquiring property, or by such other procedure as may be set forth in an implementing order approved by the Board of County Commissioners.
- (6) Offer sheet. Prior to consideration by the Board of County Commissioners, the owner(s) shall complete and sign an offer sheet listing the price and terms and conditions of the proposed conservation easement.
- (7) Recommendation to the Board of County Commissioners.
- (a) After receiving the Administrator's evaluation, appraisal report, offer sheet, and other supporting documents for each property being considered for participation in the ALPDR Program pursuant to this section, the County Mayor may consider whether an eligible property should be recommended to the Board of County Commissioners for participation in the ALPDR Program and may prepare a recommendation to the Board as to each such recommended property.
- (b) Where a recommendation is advanced to the Board, it shall include: delineation of the property being considered; the proposed purchase price; the negotiated conservation easement; and the Administrator's evaluation, appraisal report, offer sheet, and other supporting documents.
- (8) Board approval. Purchase of a conservation easement through the ALPDR Program and the use of ALPDR Trust Fund monies shall require Board of County Commissioners approval.
- (9) Recordation. Any approved conservation easement shall be promptly executed by the property owner(s) and recorded in the public records of Miami-Dade County, Florida.
- (D) Conservation Easement Terms and Conditions. Each conservation easement acquired pursuant to this section shall include, but not be limited to, the following provisions and shall be subject to review and approval by the County Attorney's Office as to form and legal sufficiency.
- (1) Limitation on permitted uses. The conservation easement shall permit only the following:
- (a) The following types of agricultural production: horticulture; floriculture;

- viticulture; aquaculture, including algaculture; pisciculture; apiculture; forestry; dairy farming; keeping or farming of livestock or poultry; and sod farming.
- (b) Nonresidential farm buildings that are an integral part of the agricultural operation, such as a barn, greenhouse, shade house, farm office, storage building, or poultry house. Existing buildings shall be shown on a site plan or sketch. Any new buildings require written approval by the County Mayor or County Mayor's designee.
- (c) Farm fences.
- (d) Farm signs, meaning signs that relate solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the property.
- (2) Standard restrictions. The conservation easement shall prohibit the following:
- (a) Accumulation of trash and junk.
- (b) Billboards and other commercial or noncommercial signs or advertisements, other than farm signs.
- (c) Grading, blasting, or earth removal not related to the agricultural use of the property.
- (d) Agricultural uses that are prohibited by state or federal law; and even if such legal prohibitions cease or are reduced, such uses may not be established without the prior written consent of the County Mayor or County Mayor's designee.
- (e) Any use not enumerated in Subsection (D)(1).
- (3) County's right to enter. The conservation easement shall grant the County the right to enter for purposes of conducting inspections and monitoring compliance with the easement restrictions.
- (4) Duration. Each conservation easement shall be perpetual in nature.
- (5) Designation of easement holder. The County shall be the sole easement holder, unless otherwise expressly provided.
- (6) Limitation on County liability. The easement shall provide that the owner shall hold harmless the County in its capacity as easement holder.

(E) *Annual Monitoring.* Conservation easements accepted pursuant to this section shall be monitored on at least an annual basis in accordance with the following:

- (1) For each applicable property, the Administrator or other designee of the County Mayor shall conduct an annual site visit and complete an annual monitoring form assessing compliance with the terms and conditions of the conservation easement.
- (2) Copies of the monitoring reports shall be maintained and available upon request.

(F) *Exchange or extinguishment of easements.* Conservation easements acquired in accordance with this section may be exchanged or extinguished in accordance with this subsection.

(1) *Exchange of easements.* Beginning 10 years from the date of recordation, the owner of the participating property may request that the County extinguish the easement on the participating property in exchange for conveying to the County a conservation easement on a different property (the “exchange property”). The owner shall not have any right to an exchange or to be heard by the Board of County Commissioners as to the request, and no exchange will be approved except in accordance with the following:

- (a) The exchange property satisfies all the requirements of this section applicable to acquisition of an original property.
- (b) The Board of County Commissioners, by a 2/3 vote of the total membership, accepts the exchange of the conservation easement upon an affirmative finding that:
  - (i) The exchange is essential to the orderly development and growth of the County;
  - (ii) The exchange is consistent with the provision of the CDMP applicable at the time of such vote;
  - (iii) The exchange does not adversely affect the purposes of the ALPDR Program; and
  - (iv) The exchange property is of:
    1. at least equal fair market value;
    2. at least equal acreage; and

3. at least equivalent location and usefulness for agricultural production as is the land upon which the original easement was recorded.
- (2) Extinguishment of easements. Beginning 25 years from the date of recordation, the owner of the participating property may request that the County extinguish an easement acquired in accordance with this section. The owner shall not have any right to an exchange or to be heard by the Board of County Commissioners as to the request, and no exchange will be approved except upon a vote of 2/3 of the total membership of the Board of County Commissioners making an affirmative finding that:
  - (a) Extinguishment is essential to the orderly development and growth of the County;
  - (b) Extinguishment is consistent with the provision of the CDMP applicable at the time of such vote;
  - (c) The County receives reimbursement of the original purchase price compounded by the statutory rate of interest, or the current appraised value of the conservation easement, whichever is higher.
- (3) Expenses. The petitioning property owner shall be responsible for all expenses and fees related to an exchange or extinguishment, including purchase of the substituted easement, site assessments, surveys, appraisals, closing costs, recording fees and taxes, title search, and title insurance if required.

**Section 33-284.3. – Agricultural Lands Purchase of Development Rights (ALPDR) Trust Fund**

- (A) Legislative findings, intent, and purpose. In furtherance of the purpose of the Agricultural Lands Purchase of Development Rights Program set forth in section 33-284.2, it is the intent of this Board to create a dedicated trust fund to provide a permanent, renewable source of monies to preserve agricultural land in Miami-Dade County through the purchase of eligible properties in accordance with the ALPDR Program. The ALPDR Trust Fund shall be used solely in accordance with this section.

(B) *Establishment of the Agricultural Lands Purchase of Development Rights Trust Fund.* There is hereby established the Agricultural Lands Purchase of Development Rights (ALPDR) Trust Fund.

- (1) All trust funds shall be deposited in an interest-bearing account.
- (2) Separate accounts within such trust fund may be created from time to time to avoid commingling as required by law or as deemed appropriate to further the purposes of the Trust.
- (3) Interest or investment earnings, if any, from the moneys on deposit in the trust fund shall be retained and reinvested in the trust fund and shall be used solely for the purposes provided in this section.
- (4) The trust fund shall be separately stated as a special revenue fund in the County's audited financial statements. Copies of such audited financial statements shall be forwarded to the Board of County Commissioners as part of the financial audit required by this section.

(C) *Use of trust fund monies.* Monies deposited in the trust fund, along with any interest earnings thereon, shall be used solely to effectuate the preservation of agricultural land in Miami-Dade County through the acquisition of specified development rights on eligible agricultural properties in accordance with section 33-284.2.

- (1) Monies in the Trust Fund may be disbursed, hypothecated, collateralized, or otherwise employed from time to time to accomplish the purposes of this section and section 33-284.2.
- (2) Administrative fees, in an amount set forth in an implementing order approved by the Board of County Commissioners, shall be maintained in a separate account and may be distributed administratively for purposes directly related to the administration of the ALPDR program, including appraisals, surveys, grant applications, and audits and other fiscal administration requirements.

(D) *Financial audit required.* The County Mayor or County Mayor's designee shall provide for a periodic financial audit of the trust fund and for a report of such audit to the Board of County Commissioners.

- (E) Liberal construction to effectuate public purpose. This section, being for the public purpose and for the long-term welfare of the present and future citizens of Miami-Dade County, Florida, shall be liberally construed to effectuate the purposes hereof.

**Sec. 33-284.4. – Agricultural Transfer of Development Rights (ATDR) Program.**

- (A) Legislative findings, intent, purpose; program established. In furtherance of the findings, intent, and purposes set forth in section 33-284.2, the County hereby establishes the Agricultural Transfer of Development Rights (ATDR) Program.

(1) The ATDR Program is a voluntary program involving willing sellers and willing buyers. The program will provide the owners of land that is located outside of the Urban Development Boundary and also designated Agriculture on the CDMP Land Use Plan Map with an alternative to on-site development of non-agricultural uses.

(2) An owner of eligible property may elect to transfer all or a portion of allowable development rights to another property as provided in this section.

- (B) Definitions. Terms used throughout this article shall be as defined in this section and in section 33B-42, or if not defined therein, as defined in this chapter or chapters 18A or 28, and where not so defined, shall take their commonly accepted meaning. The following definitions shall apply for purposes of this Section:

(1) Transferrable right means a lawful permitted right of use of real property that inures to the benefit of the owner of a parcel of land.

(2) Transferor parcel means a parcel of land from which a transferrable right has been or will be severed in accordance with this section.

(3) Urban land use includes all of the land use categories depicted on the Comprehensive Development Master Plan Land Use Plan map, except “Agriculture,” “Open Land,” “Environmental Protection,” and “Environmentally Protected Parks,” or their municipal equivalents.

- (C) Applicability in unincorporated and incorporated areas.
- (1) Unincorporated areas.
- (a) Transferrable rights shall be freely transferable and may be used to secure a development bonus for the development of any parcel of land located within the land use regulatory jurisdiction of Miami-Dade County, provided that the development density and intensity of the parcel proposed for development complies with the standards and requirements of this section.
- (b) Before transferable rights may be used to secure a development bonus on any parcel of land, the purchaser of transferrable rights shall have the affirmative duty to demonstrate that an instrument of conveyance or the use of a transferrable right has been recorded in the chain of title as required by this section.
- (2) Incorporated areas.
- (a) Transferrable rights shall be freely transferable and may be used to secure a development bonus for the development of parcels of land located within the land use regulatory jurisdiction of a municipality, to the extent allowed in the municipality, provided that the maximum allowable density and intensity is no greater than provided in section 33B-45.
- (b) Before transferable rights may be used to secure a development bonus on any parcel of land, the purchaser of transferrable rights shall have the affirmative duty to demonstrate to the County that an instrument of conveyance or the use of a transferrable right has been recorded in the chain of title as required in this section.
- (D) Properties eligible to be transferor parcels. To participate in the ATDR Program as a transferor parcel, a property must meet all of the qualifications set forth in section 33-284.2(B), except that suitability for agricultural production and current use for direct agricultural production are not required.



- (E) Conservation easement and annual monitoring required.
- (1) To receive a transferrable right, the property owner shall first execute and record in the chain of title of the transferor parcel a conservation easement in favor of the County that complies with section 33-284.2(D).
  - (2) The easement shall be monitored on at least an annual basis in accordance with section 33-284.2(E).
- (F) Application of Transferrable Rights.
- (1) Transferrable rights may only be used to secure a development bonus on land that is designated for urban land uses or in conjunction with an application to approve redesignation of land to an urban land use.
  - (2) Transferrable rights shall comply with division 3 of chapter 33B governing severable use rights, except where specifically provided otherwise in this section.

**Section 2.** Section 33B-45 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 33B-45. - Development of severable use rights.**

\* \* \*

- (g) Residential use of severable use rights. Except as provided ~~[[in paragraph (g)(15)]]~~ below and notwithstanding the provisions of any other code or regulation of Miami-Dade County or the applicable municipality, >>a severable use right may be used to secure a development bonus on a development parcel in accordance with the following standards<< ~~[[the developer of a parcel of land may develop, in addition to the number of dwelling units authorized in each zoning district, one dwelling unit for each severable use right, provided that the total development proposed does not exceed the following limitations]]:~~
- (1) In the EU-2 District:
    - a. Minimum lot size—Four (4) acres;
    - b. Minimum frontage—One hundred sixty-five (165) feet;
    - c. Maximum coverage—Twenty (20) percent.
  - (2) In the EU-1C District:
    - a. Minimum lot size—Two (2) acres;
    - b. Minimum frontage—One hundred twenty-five (125) feet.

- (3) In the EU-1 District:
  - a. Minimum lot size—Thirty-two thousand five hundred (32,500) square feet;
  - b. Minimum frontage—One hundred ten (110) feet.
- (4) In the EU-S District:
  - a. Minimum lot size—Twenty thousand (20,000) square feet;
  - b. Minimum frontage—One hundred ten (110) feet.
- (5) In the EU-M District:
  - a. Minimum lot size—Twelve thousand five hundred (12,500) square feet;
  - b. Minimum frontage—One hundred (100) feet.
- (6) In the RU-1 District:
  - a. Minimum lot size—Six thousand (6,000) square feet;
  - b. Minimum frontage—Sixty (60) feet;
  - c. Maximum coverage—Forty (40) percent.
- (7) In the RU-2 District:
  - a. Minimum lot size—Six thousand (6,000) square feet;
  - b. Minimum frontage—Sixty (60) feet;
  - c. Maximum coverage—Forty (40) percent.
- (8) In the RU-TH District:
  - a. Maximum density—Ten (10) du/acre;
  - b. Minimum lot size—One thousand eight hundred (1,800) square feet;
  - c. Minimum front setback—Ten (10) feet.
- (9) In the >>RU-3 and<< RU-3M District:
  - a. Maximum density—Fifteen (15) du/acre;
  - b. Maximum floor area ratio—0.60;
  - c. Maximum height—Three (3) stories;
  - d. Maximum coverage—Thirty-five (35) percent.
- (10) In the RU-4L District:
  - a. Maximum density—Twenty-five (25) du/acre;
  - b. Maximum floor area ratio—0.9;
  - c. Maximum height—Six (6) stories;
  - d. Maximum coverage—Thirty-five (35) percent.

- (11) In the RU-4M District:
  - a. Maximum density—Forty (40) du/acre;
  - b. Maximum floor area ratio—1.0;
  - c. Maximum height—Nine (9) stories;
  - d. Maximum coverage—Thirty-five (35) percent.
- (12) In the RU-4 District:
  - a. Maximum density—Fifty-five (55) du/acre;
  - b. Maximum height—One (1) additional story;
  - c. Maximum floor area ratio—2.2 for a development over nine (9) stories.
- (13) In the RU-4A District:
  - a. Maximum density:
    - 1. Apartments—Fifty-five (55) du/acre;
    - 2. Hotel rooms—Eighty-five (85) du/acre;
  - b. Maximum height—One (1) additional story;
  - c. Maximum floor area ratio—2.2 for a development over nine (9) stories.
- (14) In the PAD, ECPAD, or REDPAD >>~~Districts: a~~  
~~density<< [[District: A]]~~ bonus of >>up to<< 20 percent in the number of residential dwelling units above the maximum density set forth on the Comprehensive Development Master Plan >>~~(CDMP)<< Land Use Plan Map as permitted by the >>CDMP<< Land Use Element [[of the Comprehensive Development Master Plan]].~~
- (15) In all ~~[[Community]]~~ Urban Center >>and Urban Area<< zoning districts~~[[Developments located on parcels of land that are in the Core or Center Sub-districts of Community Urban Center zoning districts and that are designated as Mixed Use Main (MM), Mixed Use Corridor (MC), or Mixed Use U.S. 1 (M1)]]~~ >>, on parcels of land that are designated for mixed uses<< on the respective Land Use Regulating Plan>>: a density bonus of up to 20 percent above<< ~~[[, may develop, in addition to]]~~ the number of dwelling units authorized in the Land Use Regulating Plan, ~~[[up to 8 dwelling units]]~~ at the rate of 2 dwelling units for each severable use right.
- (16) >>In the Mixed Use Corridor District (MCD): a bonus of 20 percent in the number of dwelling units above the maximum density set forth in the CDMP.
- (17)<< Municipalities that allow the use of severable use rights in accordance with this division may establish their own limitations on total development that may be permitted with the use of severable use rights in

residential zoning districts, provided that ~~>>the maximum allowable density and intensity is no greater than provided in this section<< [[no more than one [[(1)]] dwelling unit may be permitted for each severable use right]]].~~

- (h) Commercial development of severable use rights.
  - (1) The developer of a parcel of land in the BU-1, BU-1A, BU-2, BU-3, ~~>>MCD,~~<< PAD, ECPAD, or REDPAD Districts>>, << may secure a development bonus of additional floor area ratio of .015 per acre for each severable use right.
    - >>a.<<In no event shall a development in a BU-1 or BU-1A District exceed 45 percent lot coverage.
    - >>b.<< In no event shall a development in >>any of the other enumerated districts<< [[a-BU-2, BU-3, PAD, ECPAD, or REDPAD District]] exceed 50 percent of lot coverage.
  - (2) The developer of a parcel of land in the OPD district may secure a development bonus of additional floor area ratio of .010 per acre for each severable use right.
  - (3) Municipalities that allow the use of severable use rights in accordance with this division may establish their own limitations on total development that may be permitted with the use of severable use rights in commercial zoning districts, provided that the development bonus of additional floor area ratio permitted for each severable use right does not exceed .015 per acre, and, in the municipal equivalent of an office park district, .010 per acre.
- (i) In the event the use of severable use rights involves development above the underlying permitted height or lot coverage or floor area ratio restriction in the district the parcel proposed by development is located, each dwelling unit and every square foot of nonresidential building above the underlying height or lot coverage or floor area ratio restriction shall be derived from severable use rights.

**Section 3.** 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 4.** 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 5.** 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:

Prepared by:

Dennis A. Kerbel

Handwritten signature in blue ink, appearing to be 'GBK'.