

<b>Topic:</b>	Sea Level Rise Adaptation; Coastal Protection
<b>Resource Type:</b>	Regulations
<b>State:</b>	Florida
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	County of Miami-Dade
<b>Year (adopted, written, etc.):</b>	2008
<b>Community Type – applicable to:</b>	Urban; Suburban
<b>Title:</b>	County of Miami-Dade Coastal Management Planning Element
<b>Document Last Updated in Database:</b>	April 15, 2017

### ***Abstract***

The Board of County Commissioners for Miami-Dade County, Florida, adopted the Planning Commission’s Comprehensive Development Master Plan (CDMP) in order to promote general welfare, maintain conditions under which people and nature can coexist in “productive harmony” and fulfill social, economic, and other requirements for present and future generations. Section 2-113.1 of the Codex specifically incorporates the CDMP’s Planning Elements. The Coastal Management Planning Element requires that sea level rise projected by the federal government be considered in all future decisions regarding design, location, and development of infrastructure and public facilities in the County.

### ***Resource***

*Editor’s Note:* The text below contains relevant provisions excerpted from Objective CM-9 of the Coastal Management Element of the Comprehensive Development Master Plan (CDMP). The remaining provisions of these sections have been omitted due to length. These concepts excerpted from the CDMP were incorporated into the Code of Ordinances, Part III, Chapter 2, Article XV by Ordinance No. 08-47, Adopted April 24, 2008.

### **Objective CM-9:**

Miami-Dade County shall continue to orient its planning, regulatory, and service programs to direct future population concentrations away from the Coastal High Hazard Area (CHHA) and FEMA “V” Zone. Infrastructure shall be available to serve the existing development and redevelopment proposed in the Land Use Element and population in the CHHA, but shall not be built, expanded, or oversized to promote increased population in the coastal high-risk area.

### **Policies**

CM-9H. Rise in sea level projected by the federal government shall be taken into consideration in all future decisions regarding the design, location, and development of infrastructure and public facilities in the County.

**Miami-Dade County, Code of Ordinances**

**Part III – Code of Ordinances**

**Chapter 2 –Administration**

**ARTICLE XV: Department of Planning, Development and Regulation**

Charter reference—Charter provisions providing for Department of Planning, § 4.07.

Cross reference—Subdivisions, Ch. 28; urban renewal, Ch. 30A; zoning, Ch. 33; developments in incorporated areas creating County impact, Ch. 33A.

**Sec. 2-113:** Adoption of Comprehensive Development Master Plan—Findings of fact; declarations of policy; purpose.

The Board of County Commissioners for Miami-Dade County, Florida, hereby declares and finds that uncoordinated use of lands within the County threatens the orderly development, the environment of the County, and the health, safety, order, convenience, prosperity and welfare of the people of this County. The Board of County Commissioners, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; in recognizing further the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances; and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of Miami-Dade County, Florida, in cooperation with federal, State, regional and local governments, and other concerned public and private organizations, to use all reasonable means and measures to:

- (a) Foster and promote the general welfare;
- (b) Create and maintain conditions under which man and nature can exist in productive harmony; and
- (c) Fill the social, economic and other requirements of the present and future generations of citizens of Miami-Dade County, Florida.

Accordingly, it is the purpose of this Commission in adopting the Miami-Dade County Comprehensive Development Master Plan to declare a County policy which will [encourage productive and enjoyable harmony between man and his environment, to promote reasonable efforts which will] prevent or eliminate unreasonable or unnecessary damage to the environment and the biosphere, to stimulate the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the

County, the State and the nation. It is the purpose and intent of this plan to assure for all people of Miami-Dade County safe, healthful, productive and aesthetically and culturally pleasing surroundings; to attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to the health or safety, or other undesirable and unintended consequences; to preserve important historic, cultural and natural aspects of our national heritage; to maintain, wherever possible, environment which supports diversity and variety of individual choice; to achieve a balance between population and natural and man-made resources which will permit the high standards of living and a wide sharing of life's amenities, and to enhance the quality of renewal resources and approach the maximum attainable recycling of depletable resources. Accordingly, this Commission hereby recognizes that each person has a fundamental and inalienable right to a healthful environment, and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The Commission further adopts the goals and objectives of the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, § 163.3161 et seq., Florida Statutes (1987), and dedicates its decision-making function in furtherance of the express intent of said act.

(Ord. No. 75-22, § 2, 3-31-75; Ord. No. 79-63, § 3, 7-11-79; Ord. No. 88-110, § 3, 11-29-88)

**Sec. 2-113.1:** Adoption of Comprehensive Development Master Plan—Plan contents designated, official text to be maintained.

(a) The Board of County Commissioners of Miami-Dade County, Florida, hereby declares that the Comprehensive Development Master Plan shall consist of the following adopted statement and elements as the same may be amended from time to time:

(i) Statement of Legislative Intent.

(ii) Elements:

1. Land Use Element.
2. Traffic Circulation Element.
3. Mass Transit Element.
4. Port and Aviation Element.
5. Conservation, Drainage, and Aquifer Recharge Element.
6. Coastal Management Element.
7. Housing Element.
8. Water, Sewer and Solid Waste Element.
9. Recreation and Open Space Element.
10. Intergovernmental Coordination Element.
11. Capital Improvements Element.

(b) An official true and correct copy of all elements of the Comprehensive Development Master Plan as adopted and as amended from time to time shall be maintained by the Director of the Department of Planning and Zoning.

(Ord. No. 75-22, § 3, 3-31-75; Ord. No. 76-100, § 3, 11-2-76; Ord. No. 77-49, § 3, 7-12-77; Ord. No. 78-45, § 3, 7-11-78; Ord. No. 79-63, § 4, 7-11-79; Ord. No. 88-110, § 3, 11-29-88; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 1, 9-3-98)

Cross reference—Comprehensive Development Master Plan, § 23A-1.

**Sec. 2-114:** Adoption of Comprehensive Development Master Plan—Legal status of plan; relationship to neighborhood, area, and functional studies; legislative intent; definitions.

(a) Legal status. The Comprehensive Development Master Plan is hereby declared to be the official long-range and comprehensive guide for the orderly growth and development of Miami-Dade County, Florida, and is adopted to direct and achieve coordinated and harmonious development and land use in a manner which will permit the planning for adequate community facilities and protect the ecological balance of the environment, in order to promote the public health, safety, convenience, prosperity and general welfare of Miami-Dade County's citizens and visitors. In furtherance hereof, this Commission hereby declares its policy and intent to evaluate and consider all its public actions involving development orders or land development regulations as defined by Section 163.3164(6), (7), and (22), Florida Statutes (1987) or affecting land use or development, including action on applications for zoning relief, to be in conformity with and consistent with the Comprehensive Development Master Plan, as provided by Section 163.3194(3)(a), Florida Statutes (1987), and to determine whether such action or actions will better serve the community. Pursuant hereto, all County actions, including, but not limited to, those for capital improvements, transportation, housing, health, parks, recreation, culture and libraries shall be coordinated and rendered consistent with the Comprehensive Development Master Plan. In recognition that developmental actions and orders have been and shall continue to be a major tool for the implementation of land use and development policies, it shall henceforth be required that applicants for developmental actions or orders shall be determined to further the attainment of the intent of this plan, which embodies the essence of the community's development policy. Any deviations from the plan shall be approved only if the provisions of subsection 2-114(c) are applicable, and further may only be approved by not less than a majority of the total membership of the Board of County Commissioners on applications for development orders pending before it, or by not less than a majority of the total membership a Community Zoning Appeals Board on applications for development orders pending before it. It shall be the responsibility of the Department of Planning and Zoning or other appropriate Miami-Dade County Boards, departments and agencies to formulate recommendations for the resolution of any conflicts in the interpretation or application of the Comprehensive Development Master Plan in a manner which will best serve the spirit and intent of the Comprehensive Development Master Plan. Any decisions relating to such conflict shall contain specific findings by the board, department or agency making said decisions.

(b) Relationship to neighborhood, area, and functional studies. Notwithstanding any other ordinance, or regulation of Miami-Dade County, Florida, neighborhood, area, and functional studies are not a part of the Comprehensive Development Master Plan. The Comprehensive Development Master Plan is hereby declared to supersede all

neighborhood, area, and functional studies, which studies shall be advisory only, and the Comprehensive Development Master Plan shall prevail in the event of any conflict or difference with any such study.

(c) Legislative intent.

(1) No taking or abrogation of vested rights. Nothing in the Comprehensive Development Master Plan shall be construed or applied to constitute a temporary or permanent taking of private property without just compensation (hereinafter "taking") or the abrogation of vested rights.

a. Vested rights or taking. Nothing contained in this ordinance or in the Comprehensive Development Master Plan shall be construed or applied to constitute a temporary or permanent taking of private property or the abrogation of validly existing vested rights. It shall be the duty and responsibility of the party alleging a taking or vested rights to affirmatively demonstrate the legal requisites of a taking or vested rights. Rights shall vest upon a demonstration to an appropriate County board or agency that the provisions of Section 163.3167(8), Florida Statutes (1987) apply or that the applicant (1) has relief in good faith (2) upon some act or omission of the government and (3) has made such a substantial change in position or incurred such extensive obligations and expenses to their detriment that it would be highly inequitable to deny relief. The mere existence of zoning contrary to the Comprehensive Development Master Plan shall not be determined to vest rights. To establish a taking, the burden shall be on the applicant to demonstrate that (1) denial of the application will deny the applicant all beneficial use of the property; and (2) that no variances, alternative uses or other forms of relief are available which could, if approved, afford the applicant a beneficial use of the property. Mere diminution in property value shall not constitute a temporary or permanent taking of private property.

b. Notwithstanding any contrary provisions of the Code of Miami-Dade County, no applicant claiming that the Comprehensive Development Master Plan, as applied to a particular development action or order, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court or before a quasi-judicial body unless he has first exhausted the administrative remedies provided in Section 2-114.1.

(2) The Comprehensive Development Master Plan shall not be construed to preempt considerations of fundamental fairness that may arise from a strict application of the Plan. Accordingly, the Plan shall not be deemed to require any particular action: (a) where the plan is incomplete or internally inconsistent, (b) that would constitute a taking of private property without due process or fair compensation; or (c) which would deny equal protection of the laws.

(3) Nothing contained in this ordinance or in the Comprehensive Development Master Plan shall limit or modify the rights of any person to complete any

development that has been authorized as a development or regional impact pursuant to Chapter 380, Florida Statutes or who has been issued a final local development order and development has commenced and is continuing in good faith as provided by Section 163.3167(8), Florida Statutes (1987).

(4) The Comprehensive Development Master Plan is intended to set general guidelines and principles concerning its purposes and contents. The Comprehensive Development Master Plan is not a substitute for land development regulations as defined by Section 163.3164(22), Florida Statutes.

(5) The Comprehensive Development Master Plan is not intended to preempt the processes whereby applications may be filed for relief from land development regulations. To the contrary, it is the intent of the Board of County Commissioners that such applications be filed, considered and finally determined, where a strict application of the Comprehensive Development Master Plan would contravene the legislative intent as expressed herein.

(6) The Board recognizes that a particular application may bring into conflict, and necessitate a choice between, different goals, priorities, objectives, and provisions of the Comprehensive Development Master Plan. While it is the intent of the Board that the land use element be afforded a high priority, other elements must be taken into consideration in light of the Board's responsibility to provide for the multitude of needs of a large heavily populated and diverse community. This is especially true with regard to the siting of public facilities. Recognizing that County boards and agencies will be required to balance competing policies and objectives of the Comprehensive Development Master Plan, it is the intention of the County Commission that such boards and agencies consider the overall intention of the Comprehensive Development Master Plan as well as portions particularly applicable to a matter under consideration.

(7) The Comprehensive Development Master Plan as adopted by the Board of County Commissioners shall be controlling and shall prevail over any error contained in a reprinting of the Comprehensive Development Master Plan or any of its parts, provided, however, this shall not preclude correction of scrivener's errors contained in the original documents.

(d) Definitions.

(1) "Developmental action or order defined." "Developmental action or order" shall mean any action or order granting, denying, or granting with conditions an application for a development permit, which shall include any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, environmental permit, or any other official action of Miami-Dade County having the effect of permitting the development of land.

(2) "Consistent with" and "in conformity with" defined. For the purposes of this

section, the terms "consistent with" and "in conformity with" shall mean that all developmental actions or orders shall tend to further the Comprehensive Development Master Plan and will not inhibit or obstruct the attainment of the articulated policies contained therein. A development approved or undertaken shall be consistent and in conformity with the Comprehensive Plan if the land uses, densities or intensities, capacity or size, timing, and all other aspects of the development are compatible with and further the objectives, policies, land uses, and densities or intensities in the Comprehensive Plan.

(e) If particular provisions of the CDMP differ from a municipal comprehensive plan that authorizes existing or proposed facilities, the particular CDMP provisions shall not supersede the municipal plan and nothing in this section shall be construed to preclude County actions pertaining to the facilities when consistent with the municipal plan, if the following conditions are met:

(1) The existing or proposed facilities shall be located entirely within the municipality and shall be consistent with the municipal comprehensive plan;

(2) The municipality shall have building permit and zoning jurisdiction over such facilities;

(3) The County and the municipality shall have entered an interlocal agreement relating specifically to the facilities, mutually funding them to be in the public interest; and the County's actions pertaining to the facilities are not inconsistent with such agreement.

County actions within the scope of this subsection shall be deemed consistent with the CDMP.

(f) In evaluating or rendering a decision on any application for developmental action or order, all County departments and boards shall deem land to be inside the Urban Development Boundary only if the land is inside and not on the marked Urban Development Boundary Line denoted on the Land Use Plan Map of the Comprehensive Development Master Plan. It is provided, however, that where there is a discrepancy between the Urban Development Boundary Line on the Land Use Plan Map versus the legal description of an approved application to expand the Urban Development Boundary, the legal description shall prevail.

(Ord. No. 75-22, § 4, 3-31-75; Ord. No. 79-63, § 5, 7-11-79; Ord. No. 88-3, § 1, 2-2-88; Ord. No. 88-110, § 4, 11-29-88; Ord. No. 89-10, § 1, 2-21-89; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 96-89, § 1, 6-18-96; Ord. No. 96-127, § 1, 9-4-96; Ord. No. 98-125, § 1, 9-3-98; Ord. No. 06-169, § 1, 11-28-06)