

## ORDINANCE NO. 2016-14

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3 AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE  
4 VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING SECTION 30-  
5 50.19, "VILLAGE MIXED-USE DISTRICT", TO INCLUDE ALL  
6 PERMITTED RESIDENTIAL USES TO BE CLASSIFIED AS MULTIPLE  
7 FAMILY; TO ADJUST MAXIMUM PERMITTED HEIGHT FOR ALL  
8 BUILDINGS TO BE 85 FEET; AND TO PROVIDE A NOTATION THAT  
9 THE VMU ZONING DISTRICT IS ELIGIBLE TO PARTICIPATE IN  
10 SECTION 30-30.15 TRANSFER OF DEVELOPMENT RIGHTS;  
11 PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION,  
12 SEVERABILITY AND AN EFFECTIVE DATE.  
13

14 WHEREAS, on June 6, 2008, the Mayor and Village Council created the zoning district  
15 Village Mixed Use (VMU), which provided for permitted uses and development standards thereto;  
16 and

17 WHEREAS, in creating the VMU, certain multifamily residential uses were narrowly  
18 defined as Senior Living Facility and rowhouses/townhouses; and  
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20 WHEREAS, it is now desired to simply identify the permitted residential uses within the  
21 VMU as multifamily residential with the ability to construct senior living or townhomes; and  
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23 WHEREAS, the VMU also provided for varying heights based on the type of residential  
24 construction ranging from 75 feet to 85 feet; and  
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26 WHEREAS, it is now desired to provide a consistent height of 85 feet for multifamily  
27 buildings within the VMU; and  
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29 WHEREAS, this ordinance is being considered as part of a broader Transfer of  
30 Development Rights initiative that seeks to conserve certain lands surrounding the VMU zoned  
31 property, as more specifically addressed pursuant to Resolution No. 2016-28.  
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33 WHEREAS, pursuant to Section 163.3174, *Florida Statutes* the Village Council has been  
34 designated as the Local Planning Agency for the Village; and  
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36 WHEREAS, on May 2, 2016, the Local Planning Agency recommended approval the  
37 proposed ordinance; and  
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39 WHEREAS, the Mayor and Village Council of the Village of Palmetto Bay desire to amend  
40 Division 30-50.19.  
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42

1 NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF  
2 THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:  
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4 **Section 1. Recitals.** The above recitals are true and correct and incorporated herein by  
5 this reference.

6 **Section 2.** Chapter 30, of the Village's Land Development Code, at Section 30-50.19 is  
7 amended to read as follows:  
8

9 **DIVISION 30-50**  
10 **ZONING DISTRICTS**

11 \* \* \*

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13  
14 **Sec. 30-50.19. Village Mixed Use District, VMU.**

15 \* \* \*

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18 (b) No provision in this section 30-50.2019 shall be applicable to any property lying outside  
19 the boundaries of the Village Mixed-Use District ("VMU").  
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21 (c) *Definitions.* Terms used throughout this zoning district, under section 30-50.2019 shall take  
22 their commonly accepted meaning unless otherwise defined in other Village Code  
23 provisions. Terms requiring interpretation specific to this zoning district are as follows:  
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25 Apartment building: A building which is used or intended to be used as a multi-family dwelling  
26 unit; as a home or residence for three or more families living in separate apartments, in  
27 which the yard areas, hallways, stairways, balconies and other common areas and facilities are  
28 shared by families living in the apartment units.  
29

30 \* \* \*

31  
32 Residential building type: One of the following multifamily residential building types shall be  
33 permitted in the VMU District: Apartment Building, Rowhouses/Townhouses or Senior  
34 Housing (as hereinafter defined).  
35

36 \* \* \*

37  
38 (d) *Uses.* Uses are allowed in the VMU District as provided for in this subsection. However,  
39 these uses shall not be deemed or construed to prohibit a continuation of any structure, use  
40 or occupancy in the VMU that were existing as of the date of the effective date of this  
41 division.

42 (1) *Permitted uses: Village Mixed Use District.*  
43 a. Residential uses. Multifamily residential, up to 400 units which may include  
44 apartment buildings, rowhouses/townhouses, and Senior Living Facilities as  
45 provided by F.S. § 760.29. For the purposes of this subsection and within  
46 the VMU zoning district, each individual hotel unit shall be considered and

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count as an individual residential unit. Residential uses are permitted in the VMU as provided below in accordance with the village's adopted comprehensive plan and the Declaration of Restrictive Covenants and the First Amendment to the Declaration of Restrictive Covenants recorded May 1, 1989 at Official Records Book 14089 at Pages 2349-52 and Official Records Book 12428 at Pages 923-1010, of the Public Records of Miami-Dade County, Florida, and the Amended Declaration of Restrictive Covenants in Lieu of Unity of Title recorded Official Resources Book 27101 at Pages 2672-2678 of the public Records of Miami-Dade County, Florida.

- ~~i. Multi-family residential rowhouses/townhouses up to 100 units.~~
- ~~ii. Senior housing, intended to comply with F.S. § 760.29, in the form of multi-family condominiums or apartments up to 300 residential units.~~

Automobile traffic volume on Old Cutler Road generated by residential land uses within the VMU Zoning District shall not exceed the automobile traffic volume which would have been generated by the residential development rights of 300 senior housing units and 100 multi-family residential rowhouses/townhouses in the VMU Zoning District pursuant to the VMU provisions of Village Ordinance 08-09 and by residential development rights of 85 single family residential units in the Interim Zoning District (which is contiguous to the western boundary of the VMU Zoning District) pursuant to the Interim provisions of Village Code section 30-50.22, as in effect on May 1, 2016. The owners of all property within the VMU shall execute a restrictive covenant running with the land containing the automobile traffic volume restriction of this subsection and development rights of this subsection shall not be available to such owners until such a covenant, approved by the Village Attorney, is publicly recorded.

\* \* \*

(e) *General requirements.* These requirements shall not be deemed or construed to prohibit a continuation or restoration after casualty of any structure, use or occupancy in the VMU District that was existing as of the date of the effective date of this section.

(1) *Buildings.*

a. *Heights.* All height restrictions herein are deemed as consistent with the intent of the previously enacted Village of Palmetto Bay Comprehensive Plan which established parameters for this VMU District. Furthermore, all height restrictions must remain in conformity with any existing deed restrictions, declarations, or covenants in effect as to any lands within the VMU District. ~~Multi-family rowhouse/townhouse units shall not exceed 70 feet above grade in height. Multi-family senior housing facilities shall not exceed 85 feet above grade in height.~~ Nonresidential All buildings shall be no higher than 85 feet above grade in height. This shall not preclude, above such height restrictions, bonuses granted by a Transfer of Development Right, antennae, elevator and roof equipment, stairway roof access and railings or similar safety barrier, as

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long as said structures are not visible from the property line of the VMU District at Old Cutler Road.

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e. *Density.* Overall density for all residential units on the property, including senior housing facilities, shall be a minimum of 3.0 and a maximum of 14.0 dwelling units per gross acre, all as consistent with the comprehensive plan of the village. Residential density calculations pursuant to the preceding sentence shall be calculated based upon the entire land area zoned VMU, regardless of any non-residential development within the VMU. Additional units may be developed in accordance with an approved Transfer of Development Rights.

\* \* \*

(i) *Nonconforming structures, uses, and occupancies.* Nothing contained in this section 30-50.2919 shall be deemed or construed to prohibit a continuation or restoration after casualty of a legal nonconforming structure, use or occupancy in the VMU District that was existing as of the effective date of this division.

(j) *Review procedure/administrative site plan review.* All applications for development approval within the VMU District that are not otherwise permitted as nonconforming uses or structures shall comply with the requirements of section 30-30.5 and this section and with the site plan review criteria contained therein. Developments shall be processed and approved administratively or by village council action, as applicable, as follows:

(1) *Administrative site plan review.*

a. The department shall review plans, including all materials required under section 30-30.5 for completeness and compliance with the provisions of sections 30-30.5 and 30-50.2919, and for compliance with the site plan review criteria provided therein, including but not limited to traffic analysis.

**Section 3. Companion TDR Resolution.** The provisions of the ordinance are offered and approved contingent upon the owner(s) of those lands zoned VMU fulfill all conditions of the companion TDR Resolution No 2016-28.

**Section 4. Conflicting Provisions.** The provisions of the Code of Ordinances of the Village of Palmetto Bay, Florida and all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 5. Severability.** The provisions of this Ordinance are declared to be severable, and if any sentence, section, clause or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sentences, sections, clauses or phrases of the Ordinance, but they shall remain in effect it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

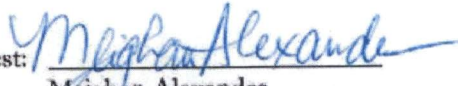
1           **Section 6. Codification.** It is the intention of the Village Council and it is hereby  
2 ordained the provisions of this Ordinance shall become and be made part of the Code of  
3 Ordinances of the Village of Palmetto Bay, Florida, that sections of this Ordinance may be  
4 renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be  
5 changed to "Section" or other appropriate word.  
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7           **Section 7. Effective Date.** This ordinance shall only take effect once the conditions of  
8 companion Resolution No. 2016-28 have been fulfilled.  
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10 **PASSED and ENACTED** this 2<sup>nd</sup> day of May, 2016.

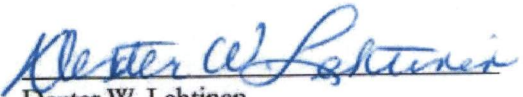
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12 First Reading:           March 7, 2016

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14 Second Reading:         May 2, 2016

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18 Attest:   
19           Meighan Alexander  
20           Village Clerk

  
Eugene Flinn  
Mayor

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23 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE  
24 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:

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27   
28 Dexter W. Lehtinen  
29 Village Attorney

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31  
32 FINAL VOTE AT ADOPTION:

33  
34 Council Member Karyn Cunningham         NO  
35  
36 Council Member Tim Schaffer               YES  
37  
38 Council Member Larissa Siegel Lara       YES  
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40 Vice-Mayor John DuBois                   NO  
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42 Mayor Eugene Flinn                         YES  
43

Additions shown by underlining and deletions shown by ~~overstriking~~.  
"\*\*\*\*" indicates portions of code excluded.