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THIS DRAFT INDICATES CHANGES
BY STRIKE THROUGHS AND
UNDERLINING. CHANGES
REFERENCED ARE TO THE PRIOR
DRAFT DATED OCTOBER 7, 2004.

IF THERE ARE NO SUCH MARKINGS,
NO CHANGES HAVE BEEN MADE TO
PRIOR DRAFT.

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**ARTICLE 7
VIOLATIONS, ENFORCEMENT AND PENALTIES**

Division 1. Purpose.

Section 7-101. Purpose and applicability. The purpose of this Article is to establish procedures for enforcement and penalties for violations of these regulations. The provisions of this Article are supplemental to any other procedures and remedies available to the City of Coral Gables. Nothing contained in this Article prohibits the City of Coral Gables from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Coral Gables Code of Ordinances or other applicable law.

Division 2. Violations and penalties.

Section 7-201. Violations.

- A. Failure to comply with any of the provisions of these regulations shall constitute a violation. Each day such violation continues shall be considered a separate offense. Deleted: LDRs
- B. Failure to adhere to approved development plans or to comply with any condition set out in a development approval shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- C. It shall be a misdemeanor in the second (2nd) degree punishable pursuant to Florida Statute 775.082 and 775.083, if any unauthorized person shall tamper with or remove the signs posted pursuant to Article 3, Division 3.
- D. Failure to complete work authorized by a building permit within one year of commencement of the work and in compliance with the permit, shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- E. Failure to diligently proceed with work authorized by a building permit once said work has commenced shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- F. For the purposes of Section 7-201C. and D., a full complement of workmen and equipment that is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting, shall be considered evidence of commencement of construction and that work is proceeding.

Section 7-202. Persons liable for violations. In addition to the owner of the property that is the subject of the code enforcement proceeding, the tenant of the building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Division 3. Code enforcement adjudication.

Section 7-301. Code enforcement adjudication.

- A. The Code Enforcement Officer may request a hearing regarding the enforcement of these regulations before any of the following adjudicative bodies:
1. A court of competent jurisdiction;
 2. The City of Coral Gables Code Enforcement Board, pursuant to Ch. 2, Art. 3, Division 2 of the Code of Ordinances of the City of Coral Gables; and

- 1
2 3. The Code Enforcement Hearing Officer, pursuant to Ch. 2, Art. 3, Division 2A of the Code of
3 Ordinances of the City of Coral Gables.
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6 **Section 7-302. Penalties for violations.**

- 7
8 A. Judicial proceedings. In addition to orders to cure the violation and/or pay for such cure, violations as
9 set forth in Section 7-201 shall be punishable upon adjudication by a court of competent jurisdiction
10 with:
11
12 1. A fine of up to \$500 per offense, imprisonment in the county jail for a term not exceeding sixty
13 (60) days, or both;
14
15 2. Revocation of an active development approval if either:
16
17 a. The application or accompanying plans are in any respect false or misleading; or
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19 b. Development or use of the premises differs materially from that which was permitted or a
20 condition of approval;
21
22 3. Restitution of the differences between the total amount of taxes which would have been due in
23 March in each of the previous years in which the covenant or agreement was in effect had the
24 property not received the exemption and the total amount of taxes actually paid in those years,
25 plus interest on the difference calculated as provided in F.S. 212.12(3), if the violation is of a
26 restrictive covenant that provides for historic preservation;
27
28 4. Costs, including but not limited to court costs and not less than \$50 or more than \$100 per
29 reinspection by the building department or code enforcement officer which was necessary to
30 determine code compliance after the violation was discovered.
31
32 B. Code enforcement proceedings. Upon finding a violation as set forth in Section 7-201, the Code
33 Enforcement Board or Code Enforcement Hearing Officer may order one or more of the following:
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35 1. That the violation be cured within a specified period of time;
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37 2. That the violator pay for the violation to be cured under the supervision of the City of Coral
38 Gables;
39
40 3. A fine of up to \$250 per offense for a first violation or \$500 per offense for a repeat violation;
41
42 4. A fine of up to \$5,000 per offense if it is determined that the damage due to a code violation is
43 irreversible;
44
45 5. That an active development approval be revoked if either:
46
47 a. The application or accompanying plans are in any respect false or misleading; or
48
49 b. Development or use of the premises differs materially from that which was permitted or a
50 condition of approval.
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52 6. That incomplete buildings, structures, or additions be demolished and removed if:
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54 a. The building permits that authorized their construction have expired; and
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Deleted: B. . If the code violation involves development or violations of the use restrictions of the zoning district in which property is located, then the Code Enforcement Officer shall consult with the Development Review Official regarding the adjudicative body before which the City will request a hearing.¶

1 b. Good cause, such as strikes, natural disasters, material shortages, or unusual inclement
2 weather, has not been shown.

3
4 7. Costs, including but not limited to administrative costs and not less than \$50 or more than \$100
5 per reinspection by the building department or code enforcement officer which was necessary to
6 determine code compliance after the violation was discovered.

7
8 C. Additional Mandatory Penalties for Violations of Historic Preservation Provisions. Any person who
9 carries out or causes to be carried out any work in violation of Article 3, Division 11, shall be required
10 to restore the subject improvement, landscape feature, or site, either to its appearance prior to the
11 violation or in accordance with a Certificate of Appropriateness approved by the Historic Preservation
12 Board, subject to the conditions imposed by the Board. All civil remedies shall be in addition to and
13 not in lieu of any criminal prosecution and/or any other applicable penalty.

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15 **Division 4. Effect of code violations on building permits.**

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17 **Section 7-401. Administrative stop-work orders.**

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19 A. If the Code Enforcement Officer determines that development is being undertaken in a manner that is
20 inconsistent with a development approval, or is being undertaken without a required approval, the
21 Code Enforcement Officer may issue a stop-work order which shall be effective against all further
22 work on the site except that which is required to cure the violation.

23
24 B. If the Code Enforcement Officer determines that development is being undertaken in a manner that is
25 inconsistent with a certificate of appropriateness, or is being undertaken without a required certificate
26 of appropriateness, the Code Enforcement Officer shall issue a stop-work order which shall be
27 effective against all further work on the site except that which is required to cure the violation.

28
29 C. All stop-work orders shall be issued in conjunction with a summons, notice to appear, or notice of
30 violation, depending on the adjudicative body that is selected to hear the case.

31
32 D. If a stop-work order is issued in conjunction with a notice of violation, the Code Enforcement Officer
33 shall immediately request a hearing of the Code Enforcement Board or Code Enforcement Hearing
34 Officer.

35
36 E. A stop-work order shall remain effective until any of the following events occur:

37
38 1. Verification by the Code Enforcement Officer that full compliance with these regulations has been
39 accomplished;

Deleted: LDRs

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41 2. A hearing before a court, Code Enforcement Board, or Code Enforcement Hearing Officer, which
42 the Code Enforcement Officer shall request immediately after issuing the stop-work order; or

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44 3. Such other reasonable time established by the Code Enforcement Officer has elapsed.

45
46 **Section 7-402. Stay of development approvals.** Upon the entry of an order of violation by the Code
47 Enforcement Board, Code Enforcement Special Master, or court, no further development approvals shall
48 be processed or granted regarding the property which is the subject of the violation, except for permits
49 necessary to correct the violation, until the violation is corrected and fines and costs which have been
50 imposed are paid.

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52 **Division 5. Curing violations through subsequent approvals.**

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54 **Section 7-501. Variances.**

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56 A. A violation may be cured through subsequent approval of an application for a variance.

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- 2 B. Applications for such variances shall be processed in the same manner as any other variance, except
- 3 that the application fee shall be separately set by resolution of the City Commission.
- 4
- 5 C. The Code Enforcement Board or Code Enforcement Hearing Officer may require that fines continue
- 6 to be assessed during the period in which the variance is processed, or may suspend fines until the
- 7 application is decided and then impose them if it is denied or withdrawn.
- 8
- 9 D. Nothing in this section requires the City to grant a variance to cure a code violation.

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11 **Division 6. Reporting violations; investigations; notice of violation.**

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13 **Section 7-601. Reporting violation; Investigations.**

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- 15 | A. Any person may report a violation of these regulations or a condition of development approval by filing a complaint with the Code Enforcement Officer. Deleted: LDRs
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- 18 | B. The Historic Preservation Board or its staff shall report violations of these regulations if they determine that any improvement within a designated historic landmark, or historic landmark district is endangered by failure to comply with City Code, or that other improvements in visual proximity to an historic landmark or historic landmark district fail to comply with City Code to such an extent as to detract from the desirable character of the historic landmark or historic landmark district. Deleted: LDRs
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- 24 C. Upon receipt of a complaint, a Code Enforcement Officer shall promptly investigate to determine whether a violation of these regulations exists. Deleted: LDRs
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- 27 D. Within ten (10) days of the date a complaint is filed, a Code Enforcement Officer shall report to the complainant regarding the disposition or status of the complaint.
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30 **Section 7-602. Minor violations; Notice and reinspection.**

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- 32 A. Where it has been determined that a violation exists, and that the violation can reasonably be corrected within twenty-four (24) hours, said offense shall be known as a "minor violation."
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- 35 B. The Code Enforcement Officer shall issue a written notice to the owner and any other alleged participant in the code violation, specifying the minor violation and directing the owner and any other alleged participant in the code violation to correct such minor violation within a period of forty-eight (48) hours at which time a reinspection shall be made.
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- 40 C. If the minor violation still remains upon reinspection, the Code Enforcement Officer shall issue a second notice of violation to the owner and any other alleged participant in the code violation by certified mail, return receipt requested, specifying that if said minor violation is not corrected within seventy-two (72) hours of the owner's receipt of notice, the case shall be set for a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer.
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- 46 D. If the minor violation still remains upon the second reinspection, the Code Enforcement Officer shall promptly request a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer, and shall notify the owner and any other alleged participant in the code violation of said hearing by certified mail, return receipt requested.
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51 **Section 7-603. Violations; Notice and reinspection.**

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- 53 A. Where it has been determined that a violation exists that is not subject to Section 7-602, the Code Enforcement Officer shall issue a written notice to the owner and any other alleged participant in the code violation, specifying the violation and directing the owner and any other alleged participant in the
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1 code violation to correct such violation within a period of seven (7) days, at which time a reinspection
2 shall be made.

3
4 B. If the violation still remains upon reinspection, the Code Enforcement Officer shall issue a second
5 violation notice to the owner and any other alleged participant in the code violation by certified mail,
6 return receipt requested, specifying that if said violation is not corrected within a period of fourteen
7 (14) days from the date of the first notice, the case shall be set for a hearing before the Code
8 Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer.

9
10 C. If the violation still remains upon the second reinspection, the Code Enforcement Officer shall
11 promptly request a hearing before the Code Enforcement Board of the City of Coral Gables or the
12 Code Enforcement Hearing Officer, and shall notify the owner and any other alleged participant in the
13 code violation of said hearing by Certified Mail, Return Receipt Requested.

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15 **Section 7-604. Repeat violations.**

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17 | A. A violation of a provision of these regulations by a person who has been previously found by the
18 Code Enforcement Board of the City of Coral Gables, the Code Enforcement Hearing Officer, or a
19 court of competent jurisdiction, to have violated, or who has admitted violating, the same provision
20 within five (5) years prior to the violation, is a "repeat violation," even if the violations occur at different
21 locations.

Deleted: LDRs

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23 B. If a repeat violation is found, the Code Enforcement Officer shall notify the owner and any other
24 alleged participant in the code violation and request a hearing before the Code Enforcement Board of
25 the City of Coral Gables or the Code Enforcement Hearing Officer. The Code Enforcement Officer is
26 not required to give the owner or any other alleged participant in the code violation time to correct the
27 violation.

28
29 C. The case may be presented to the Code Enforcement Board of the City of Coral Gables or the Code
30 Enforcement Hearing Officer even if the repeat violation has been corrected prior to the hearing, and
31 the notice shall so state.

32
33 D. If the repeat violation has been corrected, the Code Enforcement Board of the City of Coral Gables or
34 Code Enforcement Hearing Officer may still schedule a hearing to determine costs and impose the
35 payment of reasonable enforcement fees upon the repeat violator.

36
37 E. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as
38 determined by the Code Enforcement Board of the City of Coral Gables or Code Enforcement
39 Hearing Officer.

1 **Section 7-605. Continuous violations.**

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- 3 A. Whenever a property owner is cited at least three (3) times for the same violation at the same
- 4 location within a period of twelve (12) consecutive months, said offense shall be known as a
- 5 "continuous violation."
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- 7 B. When a Code Enforcement Officer finds a continuous violation, the case shall be promptly set for a
- 8 hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement
- 9 Hearing Officer and the owner and any other alleged participant in the code violation shall be
- 10 immediately notified by Certified Mail, Return Receipt Requested, of the hearing. All hearings shall be
- 11 set such that there is at least seven (7) days between the date notice is mailed and the date of the
- 12 hearing.
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- 14 C. The proper authorities of the City of Coral Gables, in addition to the remedies herein provided for,
- 15 may institute any appropriate action or proceeding to prevent such unlawful erection, construction,
- 16 reconstruction, alteration, repair, conversion, maintenance or use, or to impose a penalty for such
- 17 violation or to restrain, correct or abate such violation in order to prevent the occupancy or use of said
- 18 building, structure or land contrary to the provision hereof, or to prevent any illegal act, conduct,
- 19 business or use in or about such premises.
- 20