

AGREEMENT ON CUSTOMARY USE FOR LOCAL ZONING CONTROL FOR MURALS  
UNDER THE HIGHWAY BEAUTIFICATION ACT

This Agreement On Customary Use For Local Zoning Control For Murals Under The Highway Beautification Act ("Agreement") is entered into between the City of Miami ("CITY"), the State of Florida, Department of Transportation ("FDOT"), and the Federal Highway Administration ("FHWA"), collectively the "Parties", on the date(s) set forth below.

WHEREAS, the CITY has made application to FDOT for certification for local zoning control of murals within the CITY'S jurisdictional boundaries under provisions of the Highway Beautification Act, 23 U.S.C. Sec. 131, et seq. ("HBA"), the Florida/U.S. Department of Transportation Agreement of January 27, 1972 ("Federal/State Agreement"), Federal Regulations, 23 C.F.R. Sec. 750.706, and Chapter 479.156, Florida Statutes ("F.S."); and

WHEREAS the Parties recognize the complexity of the implementation of the Highway Beautification Act and associated challenges; and

WHEREAS, the CITY, is a local zoning authority,

WHEREAS, the CITY, as a local zoning authority, has the ability to vary from the Federal/State Agreement based on a determination of customary use per Federal regulation after receiving delegated authority from FDOT to direct all or portions of outdoor advertising within its jurisdictional limits; and

WHEREAS, the Parties have been working collaboratively and in good faith in their roles in managing outdoor advertising programs and believed no actions have been actions in direct violation of federal and state laws; and

WHEREAS, the CITY had unique practices and a local ordinance regulating outdoor advertising displays prior to January 27, 1972; and

WHEREAS, the CITY has documented such practices through historical documents, ordinance, and photographs; and

WHEREAS, the CITY, in consultation with FDOT and FHWA, proposes a determination of customary use pursuant to 23 U.S.C. 131; and

WHEREAS, the Parties identified a need to document and agree upon the mutual acceptance of customary use implementation; and

WHEREAS, the CITY amended its application for certification in its letter to FDOT of September 13, 2011, and wishes to specify and agree to additional provisions for mural control; and

WHEREAS, the CITY shall make changes to the City of Miami Code of Ordinances, as amended ("Code") in accordance with this Agreement by October 2013;

In consideration of the mutual covenants, contained in this Agreement, the Parties agree as follows:

1. Amendment of the Code. Section 62-606(3) of the Code shall be amended to conform to the following:

(3) Spacing of Murals

A. Spacing between murals and number of murals allowed per building. A mural shall not be located within 300 feet of another legally permitted mural oriented towards the same side of the street within the controlled area, as defined in Section 479.01(6), F.S.,(2012). The distance shall be measured in

accordance with Rule 14-10.006(4), Florida Administrative Code ("F.A.C.") (2012) (i.e., measured along the edge of pavement of the main traveled way). The spacing requirement provided herein shall be reduced to 150 feet within the boundaries of the Park West Entertainment District.

If two murals are permitted for any one building, they must be on different sides of the building and each such mural shall be required to obtain a separate mural permit for each street front. This section shall not preclude a mural on one building which is continuous on two sides of the building, commonly referred to as a wrap-around mural. A wrap-around mural shall be counted as one mural for purposes of fees and the maximum number of mural permits which may be issued pursuant to the Code.

B. Spacing between murals and billboards. A permit for a new mural shall not be issued for a mural located within 300 feet of a legally permitted billboard or mural located within the controlled area, as defined in Section 479.01(6), F.S. (2012). The distance shall be measured in accordance with Rule 14-10.006(4), F.A.C. (2012). The spacing requirement provided herein shall be reduced to 150 feet within the boundaries of the Park West Entertainment District.

C. Existing Signs. Subject to compliance with all other City ordinance requirements, all mural permits which will become non-conforming pursuant to this section are subject to the following conditions unless revoked or rescinded by the City pursuant to section 62-612 of the Code or unless they are transferred by the Permittee pursuant to Section 62-609 (b) of the Code.

(i) Existing murals within the Park West Entertainment District. Existing murals within the Park West Entertainment District are depicted in Exhibit A and will be at the time of execution of this Agreement legally permitted yet not in compliance with the newly clarified distance requirements. All of these permitted sites shall be allowable mural locations as they have been erected in compliance with the ordinance and remain legal non-conforming so long as they do not violate the ordinance until the mural permit is revoked, rescinded or transferred to a new location. No new mural permit may be issued at the same or transferred site without compliance with the above spacing requirements.

(ii) Existing murals outside of the Park West Entertainment District. Existing murals outside the Park West Entertainment District fall under one of three categories as noted in Exhibit A. In Category 1, once a mural permit has been revoked, rescinded, or transferred to a new location, no new mural permit may be issued at the same or transferred site without compliance with the above spacing requirements. In Category 2, the City may not issue a new permit unless the spacing requirements as outlined in this Agreement are met. Mural locations that at the time of execution of this Agreement are legally permitted yet not in compliance with the newly clarified distance requirements shall be allowable mural locations for the time remaining in the lease with the property owner at the time the mural location was approved by the City. Should the duration of the lease exceed 10 years from the date of execution of this Agreement, then the Qualified Mural Applicant with rights to the location shall apply for relocation to a property that does meet the requirements as outlined by this Agreement and the relevant sections of the Code at the time the relocation is applied for, or the permit will be revoked or rescinded. In Category 3, existing murals which do not provide a visual conflict to other existing murals or billboards may remain although the spacing requirements have not been met.

Existing murals which currently meet the above spacing criteria or are outside of HBA Controlled Routes are also noted in Exhibit A. Exhibit B contains a map locating all murals identified in Exhibit A.

The City may amend Section 62-606 from time to time so long as (i) the spacing criteria established herein is not reduced; and (ii) the boundaries of the Park West Entertainment District are not increased.

2. This Agreement may not be modified unless done so in writing and executed by all Parties.
3. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations, or remedies upon any other person or entity except as expressly provided for in this Agreement.
4. This Agreement, together with the attached exhibits and documents made a part by reference, embodies the entire agreement of the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communication, representation, or agreement, either verbal or written, between the Parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of each Party or his/her delegate.
5. If any term or provision of the Agreement is found to be illegal or unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.
6. Each Party shall bear its own attorney's fees and costs with respect to this Agreement.
7. This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in a state court of appropriate jurisdiction in Leon County, Florida, applying Florida law.

CITY OF MIAMI, a Florida municipal corporation

ATTEST:

\_\_\_\_\_  
Todd B. Hannon, City Clerk

By: \_\_\_\_\_  
Johnny Martinez, PE  
City Manager

APPROVED AS TO FORM AND  
CORRECTNESS:

APPROVED AS TO INSURANCE  
REQUIREMENTS:

\_\_\_\_\_  
Julie O. Bru  
City Attorney

\_\_\_\_\_  
Calvin Ellis  
Risk Management Director

\_\_\_\_\_  
Ananth Prasad, Secretary  
Florida Department of Transportation

\_\_\_\_\_  
Date

\_\_\_\_\_  
David C. Hawk, Acting Division Administrator  
Federal Highway Administration, Florida Division

\_\_\_\_\_  
Date

Exhibit A – Status of Existing Signage

**Park West Entertainment District**

For the following signs, they will be, at the time of execution of this Agreement, legally permitted yet not in compliance with the newly clarified distance requirements. All of these permitted sites shall be allowable mural locations as they have been erected in compliance with the ordinance and remain legal non-conforming so long as they do not violate the ordinance until the mural permit is revoked, rescinded or transferred to a new location. No new mural permit may be issued at the same or transferred site without compliance with the above spacing requirements:

Mural # on Exhibit B Map	Address	Road Name
12	1040 Biscayne Blvd, West Face	Dolphin Expressway
14	888 Biscayne Blvd	Biscayne Blvd
22	1100 Biscayne Blvd, West Face	Dolphin Expressway
23	1100 Biscayne Blvd, North Face	Dolphin Expressway

**Non - Park West Entertainment District**

**Category 1:** For the following signs, once a mural permit has been revoked, rescinded, or transferred to a new location, no new mural permit may be issued at the same or transferred site without compliance with the above spacing requirements:

Mural # on Exhibit B Map	Address	Road Name
11	1236 N Miami Ave, East Face	Dolphin Expressway
33	1050 NW 14 street, South Face	SR-836

**Category 2:** For the following signs, the City may not issue a new permit unless the spacing requirements as outlined in this Agreement are met. Mural locations that at the time of execution of this Agreement are legally permitted yet not in compliance with the newly clarified distance requirements shall be allowable mural locations for the time remaining in the lease with the property owner at the time the mural location was approved by the City. Should the duration of the lease exceed 10 years from the date of execution of this Agreement, then the Qualified Mural Applicant with rights to the location shall apply for relocation to a property that does meet the requirements as outlined by this Agreement and the relevant sections of the Code at the time the relocation is applied for, or the permit will be revoked or rescinded:

Mural # on Exhibit B Map	Address	Road Name
6 <sup>1</sup>	130 N. Biscayne Blvd	Biscayne Blvd
21 <sup>2</sup>	1236 N Miami Ave, S/W Face	Dolphin Expressway
25 <sup>3</sup>	1360 NW 1CT	Dolphin Expressway
27 <sup>4</sup>	1311 NW 10th Ave, West Face	SR-836
28 <sup>5</sup>	1311 NW 10th Ave, East Face	SR-836
29 <sup>6</sup>	1334 N Miami Ave	Dolphin expressway
35 <sup>7</sup>	1050 NW 14 street, East Face	SR-836
46 <sup>8</sup>	3995 N Miami Ave Miami Fl	I-195
n/a <sup>9</sup>	1525 NW 7 <sup>th</sup> Ave	I-195
n/a <sup>10</sup>	444 NW 2 <sup>nd</sup> Avenue	US-441

<sup>1</sup>Mural in Conflict with Mural Exhibit B #2 - 100 Biscayne Blvd

<sup>2</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers BV096/097

- <sup>3</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers BW544/BR203
- <sup>4</sup>Mural in Conflict with Mural Exhibit B #18 - 1021 NW Sunnybrook Road, West Face
- <sup>5</sup>Mural in Conflict with Mural Exhibit B #17 - 1400 NW 10th Ave (aka 1021 NW Sunnybrook East)
- <sup>6</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers BV096/097
- <sup>7</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers CB471/CB472
- <sup>8</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers CH718/CD972
- <sup>9</sup>Mural in Conflict with Pending Billboard Permit. If a conflicting billboard is approved by FDOT as a result of the pending administrative hearing for a denied permit at the time of the execution of this Agreement, the 10 year clause referenced herein will run from the date of the execution of this Agreement.
- <sup>10</sup>Mural in Conflict with State-Permitted Billboard bearing permit numbers BP277/BP278

**Category 3:** For the following signs, these existing murals do not provide a visual conflict to other existing murals or billboards and may remain although the spacing requirement has not been met:

Mural # on Exhibit B Map	Address	Road Name
3	12 SW 2nd Ave	I-95

**All Areas**

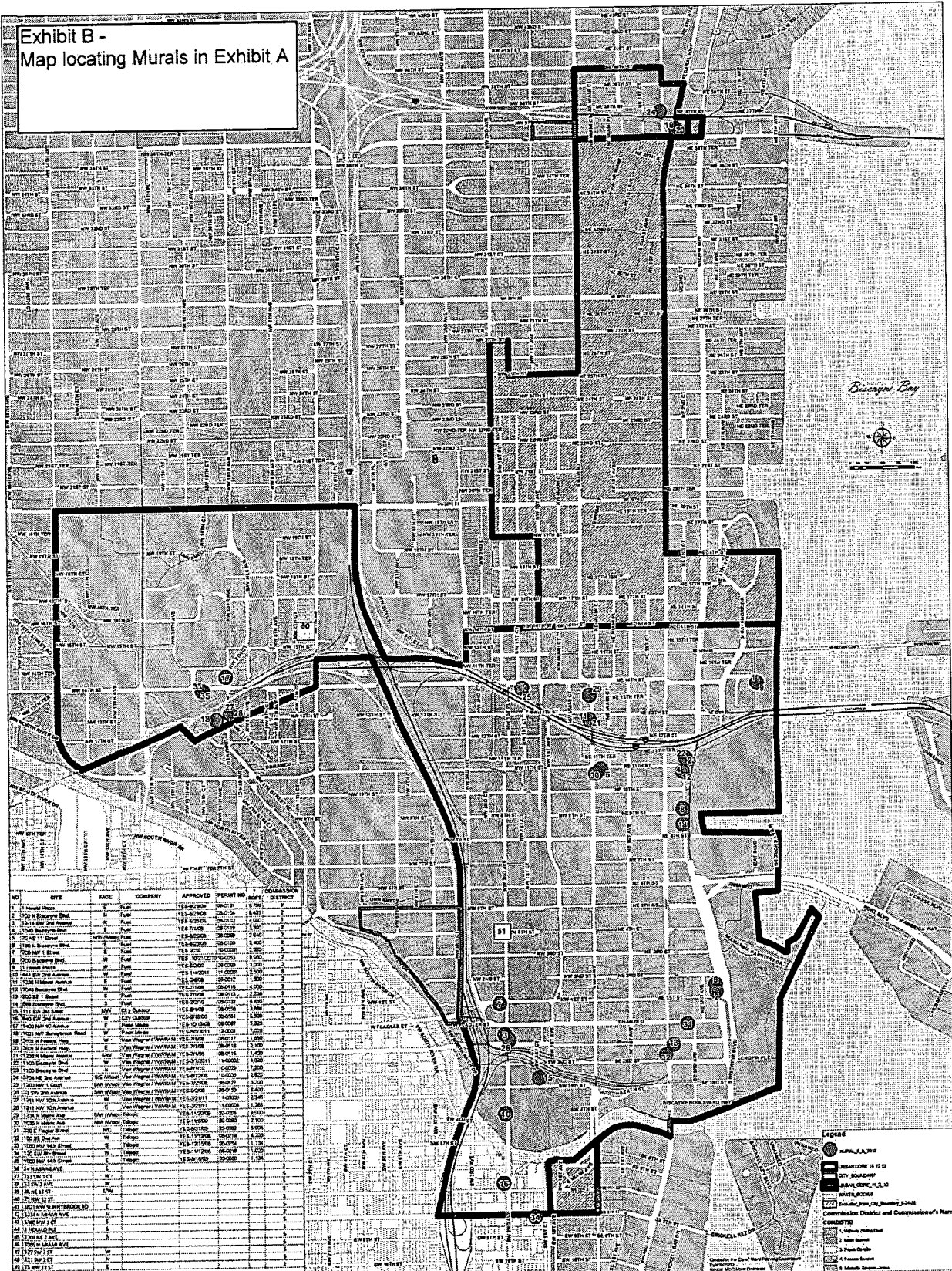
For the following signs, these existing murals meet spacing requirements between other murals or billboards:

Mural # on Exhibit B Map	Address	Road Name
1	1 Herald plaza, East Face	Dolphin Expressway
2	100 Biscayne Blvd	Biscayne Blvd
4	1040 Biscayne Blvd, South Face	Biscayne Blvd
5	20 NE 11 ST MIAMI FL	SR-836/DOLPHIN EXPWY
8	900 Biscayne Blvd unit 2605	Dolphin Expressway
9	1 Herald Plz West Face	SR-836/ DOLPHIN EXPWY
10	444 SW 2 AVE STE 325	SR-9/I-95
13	200 SE 1st St	US-1 BRICKLE AVE
17	1400 NW 10th Ave	SR-836/DOLPHIN EXPWY
18	1021 NW Sunnybrook Road, West Face	SR-836/ DOLPHIN EXPWY
19	3601 N Federal Hwy, West Face	SR-112/I-195
20	3601 N Federal Hwy, East Face	I-195
24	3704 NE 2nd AVE Miami Fl, 33137	I-195
30	1035 N Miami Ave	SR-836/DOLPHIN EXPWY
31	230 E Flagler STREET	FLAGLER STREET
32	150 SE 2nd Ave	I-195
34	120 SW 8th St	TAMIAMI TRAIL

For the following signs, these existing murals are outside of the Highway Beautification Act Controlled Routes. Spacing requirements noted in this agreement for these locations are not applicable:

Mural # on Exhibit B Map	Address	Road Name
7	200 NW 1st St	I-95
15	111 SW 3rd St	I-95
16	640 SW 2 Ave, West Face	I-95
26	33 SW 2nd Ave	I-95

Exhibit B -  
Map locating Murals in Exhibit A



NO.	SITE	FACE	COMPANY	APPROVED	PERMIT NO.	COMMISSION DISTRICT
1	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
2	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
3	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
4	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
5	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
6	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
7	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
8	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
9	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
10	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
11	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
12	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
13	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
14	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
15	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
16	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
17	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
18	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
19	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
20	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
21	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
22	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
23	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
24	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
25	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
26	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
27	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
28	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
29	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
30	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
31	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
32	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
33	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
34	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
35	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
36	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
37	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
38	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
39	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
40	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
41	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
42	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
43	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
44	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
45	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
46	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
47	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
48	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
49	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
50	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
51	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
52	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
53	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
54	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
55	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
56	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
57	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
58	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
59	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
60	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
61	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
62	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
63	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
64	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
65	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
66	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
67	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
68	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
69	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
70	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
71	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
72	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
73	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
74	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
75	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
76	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
77	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
78	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
79	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
80	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
81	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
82	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
83	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
84	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
85	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
86	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
87	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
88	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
89	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
90	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
91	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
92	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
93	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
94	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
95	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
96	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001
97	1000 Biscayne Blvd.	N	Fluor	11-18-2008	2008-01	18-001
98	1000 Biscayne Blvd.	E	Fluor	11-18-2008	2008-01	18-001
99	1000 Biscayne Blvd.	S	Fluor	11-18-2008	2008-01	18-001
100	1000 Biscayne Blvd.	W	Fluor	11-18-2008	2008-01	18-001

**Legend**

- MURAL\_A\_2010
- URBAN CODE 18 15 12
- CITY\_BLDGTYPE
- URBAN\_CODE\_12\_10
- URBAN\_CODE
- Exhibit\_A\_2010
- Commission District and Commissioner's Name
- COMMITTED
- 1. Vehicle Wraps
- 2. Signs
- 3. Murals
- 4. Street Art
- 5. Public Art
- 6. Landmark Signage

These murals highlighted in this report were previously permitted murals. There is the total of these murals at the end of the report. Future permits will need to meet spacing requirements. Mural A, B, C are proposed locations. The location on the map is marked with yellow markers.

# City of Miami, Florida



JOHNNY MARTINEZ, P.E.  
CITY MANAGER

P.O. BOX 330708  
MIAMI, FLORIDA 33233-0708  
(305) 250-5400  
FAX (305) 250-5410

September 13, 2011

Ananth Prasad, P.E., Secretary  
Florida Department of Transportation  
605 Suwannee Street  
Tallahassee, FL 32399-0450

Re: City of Miami Certification for Local Control of Wall Murals—Evidence of Customary Use for Control of Spacing, Lighting and Size Predating 1965

Dear Secretary Prasad,

*Ananth*

We have reviewed the Federal Highway Administration (“FHWA”) letter of June 17, 2011 (“FHWA Letter”), to the Florida Department of Transportation (“FDOT”) (Exhibit A) and wish to offer factual corrections to clarify the record and to assure you that when notification of certification of the City of Miami (“City”) is made by FDOT, “effective control” has been and will continue to be implemented over all outdoor advertising, including wall murals and billboards within the City’s jurisdiction. While the City’s sign regulations have evolved along with its growth and development into an international city, the City has maintained regulations controlling the size, spacing and lighting of signage since 1965. We are addressing three specific issues raised in the FHWA Letter and are providing an explanation, with examples, of results of applying City of Miami Ordinance No. 7338, adopted in 1965 (“1965 Ordinance”) (Exhibit B) to today and comparing it to the more restrictive controls enacted by the City in Ordinance No. 12983, adopted in 2008 (“2008 Ordinance”) (Exhibit C). Also included within this correspondence is extensive photographic evidence of the placement, spacing and lighting of outdoor advertising in the primary corridors and arteries of the City. The attached examples attest to the customary use of such advertising throughout our thoroughfares. (Exhibits D-O) evidence outdoor advertising on primary and arterial roads)

## 1) Comprehensive Controls

The City is comprehensively controlling spacing between wall murals and all other types of outdoor advertising signs. Control of wall murals with respect to size, spacing and lighting is not occurring in isolation from other signs, displays or devices regulated by the Highway Beautification Act (“HBA”) in the controlled area. A system of fully integrated and comprehensively controlled wall murals and billboards, including size, spacing and lighting, is in place today through local ordinance (see Chapter 62, Article 8 Division 5, Section 62-606, subsections 5 and 6 and Division 6: and Ordinance No. 12983, Section 62-606, Code of the City of Miami). Today’s controls are generally more stringent for both wall murals and billboards than the regulations existing at the time of the Federal/State Agreement in 1972. It is

extremely important to recognize that in 1972, as today, there was a customary distinction between wall mural and billboard regulation, as evidenced by the 1965 Ordinance. (See Ordinance No. 7338, Section II – Definitions, et. seq.) This historic difference between billboard and wall mural regulation therefore constituted a customary use existing prior to 1972 and is the basis for the hybrid type of certification requested herein. The City's current ordinance is also consistent in recognizing the long-standing, customary usage that there was not a spacing standard between wall murals and billboards.

2) Size

The ordinance in effect in 1972 and before, if applied in Miami today, would allow wall murals which exceed the 10,000 sq. ft. restriction established in the 2008 Ordinance. (See Ordinance No. 12983, Section 62-606, Code of the City of Miami) In light of this, it is apparent that the City has not revised its outdoor advertising controls arbitrarily over time, but instead has thoughtfully decided on a more restrictive approach, and one which includes criteria which were customary in 1972 and before. (See Chapter 62, Article 8, Division 5, Section 62-606, subsection 1 and 2 "Criteria for Issuing a Wall Mural Permit.")

Furthermore, if the size formula in the 1965 Ordinance were applied today to the buildings in Miami which currently have wall murals, some of the current wall murals would actually be allowed to be larger than would be allowed today. Also, because of the significantly larger building structures within the City today, using the 1965 formula and applying it to the modern structures would yield substantially larger wall murals than allowed under the current 2008 ordinance (see citation above). As an example of this, a building the size of the existing Four Seasons Hotel and Tower, depending on the location within the City, when applying the 1965 criteria, would allow a wall mural in excess of 14,000 sq.ft. In the 2008 Ordinance, a building this size would not be allowed to have a wall mural of greater than 10,000 sq ft. Moreover, even larger building structures are in the planning stages for construction within the City. As examples, the Miami City Centre and the current Miami Herald sites are in the planning stages for major development. Miami City Centre is a proposed 5.65 acre parcel of land located in Brickell Village. A project of this scope, with its extensive street frontage and height, if the 1965 size formula were applied, would permit a wall mural potentially greatly in excess of 10,000 sq.ft. A planned development at the Miami Herald site could also yield a wall mural in excess of 10,000 sq.ft. if the 1965 ordinance was applied. Under the more restrictive 2008 Ordinance, both proposed developments will be limited to a 10,000 sq.ft. mural (see citation above).

3) Spacing

As FHWA has noted in their letter, the 1965 Ordinance did not restrict spacing between wall murals, between billboards, or between wall murals and billboards, as demonstrated by both ordinances and the several photos submitted in the City's certification request. However, the 1965 Ordinance in Article XXIV, Section 1(9), did regulate the distance between signs and City designated waterways and limited access highways. Therefore, the 1965 Ordinance included an early version of distance regulations which through time has evolved into not only restricting distance from specific locations, but also restricting the distances from sign to sign. In the 2008 Ordinance, the City chose to be more restrictive by imposing the spacing standards of the



Federal/State agreement on billboards and establishing a three hundred (300) foot minimum spacing distance between wall murals (except for murals located in the City Park West Entertainment District/ Community Redevelopment District, where special rules are necessary to encourage economic development). The current ordinance is consistent with the customary use as to spacing in the 1965 ordinance in that it does not require a minimum spacing between wall murals and billboards. Photographs are attached which demonstrate the general and customary spacing of signs in the City during this time period.

In addition to the restrictions described above, the 2008 ordinance provides for a number of additional limitations and restrictions that were not included in the 1965 ordinance. These include:

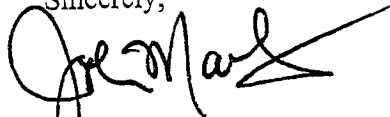
- In the 2008 ordinance, murals are only allowed in tightly defined zoning districts within a specified geographic area which has been approved by the City and which is consistent with federal and state law. The ordinance tightly controls commercial and industrial areas where murals can be placed, and not all commercial and industrial areas can have murals, unlike the 1965 ordinance.
- The 1965 ordinance allows for an unlimited number of wall murals in the commercial zone, while the 2008 ordinance strictly limits the number.
- Unlike the 1965 ordinance in which anyone can obtain a permit, the 2008 code has very stringent qualifications to become a qualified applicant, and ultimately a permittee. A permittee must post \$500,000 bond with the City to ensure safety compliance.
- The 2008 ordinance requires that permittees be in compliance with City building codes for safety and hurricane issues, unlike the 1965 ordinance.
- The 1965 Ordinance had no caps on total size or restrictions on the percentage of the sign that can be placed on a wall or over windows. The 2008 ordinance restricts the mural to 80% of the wall area and 33% of window cover, with a 10,000 sq. ft. maximum.
- The 2008 ordinance allows for only 15% textual matter, and is tightly controlled by the Zoning Administrator. Ad copy must be submitted to the Zoning Administrator for approval, prior to posting. Neither restriction applied in the 1965 ordinance.
- Lighting is restricted to indirect illumination and to defined times (from 7 pm to 12 pm), which is more restrictive than the 1965 ordinance.
- The 2008 ordinance restricts moving messages and other electronic movements, which were not limited in the 1965 ordinance.
- The 2008 ordinance provides tightly defined rules on compliance with hurricane warnings. Once warnings are given, signs must be removed within 24 hours subject to enforcement provisions.

In light of the information provided above, and after discussions and consultations with FDOT, the City of Miami is requesting notification and certification by FDOT as a local zoning authority with authority to control signs within its jurisdictional boundaries. A determination of customary use for size, spacing and lighting, including the hybrid customary use for billboard and wall mural regulation, has been made pursuant to the requirements of the Highway Beautification Act, Federal regulations and the Federal/State Agreement, and these historical criteria have been thoughtfully and comprehensively applied and integrated into the current City ordinance for sign control.

The notification of certification from FDOT to FHWA must contain and be subject to a specific condition and reflect the firm commitment by the City, that it will continue to require billboards to comply with the requirements of the Federal/State Agreement and state law. After certification, the City will maintain the existing status quo of regulation with regard to billboards, causing no change which would cause the City to be in non-compliance with criteria in the Federal/State Agreement and state law. This hybrid approach will ensure that Miami complies with the uniform system of standards for billboards which exists throughout the state. The City agrees to assume full responsibility for enforcement of sign violations, and will provide FDOT with timely notification of proposed new sign locations to facilitate FDOT general oversight for "effective control" of outdoor advertising.

Thank you for the opportunity to provide this additional information to correct any misunderstandings regarding the customary use criteria in the City of Miami in 1972 and the current regulations. Upon receipt of notification of certification, the City looks forward to continued close cooperation and collaboration with the Florida Department of Transportation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Johnny Martinez', with a long, sweeping horizontal stroke extending to the right.

Johnny Martinez, P.E.  
City Manager, City of Miami

# Exhibit A



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

Florida Division

545 John Knox Road, Suite 200  
Tallahassee, Florida 32303

Phone: (850) 553-2200  
Fax: (850) 942-9691 / 942-8308

[www.fhwa.dot.gov/fldiv](http://www.fhwa.dot.gov/fldiv)

June 17, 2011

In Reply Refer To:  
HDA-FL

Ananth Prasad, P.E.  
Secretary  
Florida Department of Transportation  
605 Suwannee Street (MS-59)  
Tallahassee, FL 32399-0450

Attention: John Garner, Director, Office of Right of Way

Re: Certification of the City of Miami for Local Control of Wall Murals

Dear Secretary Prasad:

Thank you for your letter of October 14, 2010, requesting our acknowledgment of the Florida Department of Transportation's (FDOT) proposed certification of the City of Miami (City) for local control of wall murals, subject to the conditions outlined in your letter. We appreciate FDOT and the City providing us with the historical information which was considered in our assessment. We believe the City's current ordinance for the proposed control of outdoor advertising for size, spacing, and lighting of wall murals is not in conformance to the Highway Beautification Act (HBA). Therefore, we recommend against delegating control to the City until certain issues are addressed.

A local zoning authority, pursuant to 23 U.S.C. § 131(d), can establish standards for the size, lighting, and spacing of outdoor advertising displays that are customarily followed within its area of control. In accordance with 23 CFR 750.706, FDOT may delegate control of outdoor advertising signs to local zoning authorities having appropriate controls to govern size, spacing, and lighting. The City of Miami qualifies as a local zoning authority.

We do not consider the City's proposed controls of wall murals used for outdoor advertising to be in conformance with the intent of the HBA and our longstanding implementing regulations. The control of wall murals with respect to size, spacing, and lighting cannot occur in isolation from the other signs, displays, or devices regulated by the HBA in the controlled area. Under 23 CFR 750.706(c)(1), the local zoning authority is supposed to regulate the size, lighting, and spacing of all outdoor advertising signs in commercial and industrial zones. A wall mural is only one type of sign, display, or device as defined in 23 CFR 750.703(i). The control of spacing between murals and all other types of outdoor advertising signs needs to be considered comprehensively. The submittal did not clearly articulate how effective control would be comprehensively addressed.

Ananth Prasad, P.E.  
June, 17, 2011

In addition, although we agree that wall murals were in use in Miami prior to the January 1972 Federal-State agreement, we do not believe the 2008 ordinance is consistent with a determination of customary use, which can help establish the basis for a local zoning authority to have more or less restrictive controls than those in the Federal-State agreement. The key adjective "customary" is not defined in the HBA, but a typical definition of the word is found in the *Webster's New World College Dictionary 4<sup>th</sup> edition*: "in keeping with custom, or usage; usual; habitual." An ordinance is evidence that a particular use was permissible when the ordinance was in effect. However, if it is determined that no such uses existed or were extremely limited, the City may not declare that based on formula calculation the use was customary, with no support. Miami apparently did have an ordinance in effect in 1972 that, based on a formula calculation, allowed some oversized signs on buildings. The submitted documentation demonstrated that some oversized murals may have existed in Miami prior to the Federal-State agreement, but in such few numbers that it cannot be said that such use was customary.

The determination of customary use for Miami wall murals allows a variance from the Federal-State agreement, but the City cannot revise its outdoor advertising controls arbitrarily over time if the revision is based upon unsupported customary use prior to the 1972 Federal-State agreement. The selection of 10,000 square feet as a maximum size for each mural location appears to be arbitrary. The City's 1965 ordinance had inherent size limitations based on a formula calculation with respect to the dimensions of a given building. Some buildings precluded the ability for a painted mural to be 10,000 square feet in size, while undoubtedly other buildings had dimensions that allowed this size mural. We believe maintaining the formula calculation for size provided in the 1965 ordinance could be an appropriate basis for a determination of customary use; we do not see a logical basis for selecting 10,000 square feet as the maximum. Even with using the formula calculation, it needs to be shown that the use of such oversized murals was customary.

Regarding the control of spacing between signs, we have already stated that the spacing of murals needs to be considered in the context of spacing between murals and all other outdoor advertising. Although we agree with the City that its 2008 ordinance is more restrictive than its 1965 ordinance that did not address spacing (e.g., allowed multiple murals on a single building), there is no customary use determination here. Without a valid determination of customary use on which to base its 2008 ordinance, and considering that murals currently are not controlled with respect to spacing among all outdoor advertising, we believe the Federal-State agreement's spacing criteria would control.

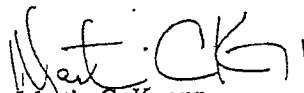
For the delegation of local control to the City of Miami, we believe the City would need to 1) work jointly with FDOT to ensure all outdoor advertising devices are controlled for size, spacing, and lighting, and not just wall murals as a stand-alone category; 2) restore its ordinance to the formula method for controlling size that was used in its 1965 ordinance; and 3) adhere to the spacing criteria in the Federal-State agreement. The FDOT should conduct a review of any existing wall murals currently located along controlled routes to ensure they are permitted in accordance with the Federal-State agreement for size, spacing, and lighting. As you indicated in your letter, FDOT ultimately remains responsible for the effective control of outdoor advertising throughout the State, even if delegated to a local zoning authority such as the City of Miami.

Ananth Prasad, P.E.  
June, 17, 2011

3

We look forward to continuing our partnership to promote the safety and recreational value of public travel and preserve the natural beauty of Florida. If you have any further questions or comments, please contact Mr. Brian Telfair of our office at (850) 553-2228.

Sincerely,



Martin C. Knopp  
Division Administrator

cc: Mr. John Garner, Director, Office of Right of Way, FDOT (MS-22)  
Mr. Jerry Curington, General Counsel, FDOT (MS-58)  
Mr. Nelson Castellanos, FHWA-HEPR-1  
Mr. Robert Black, FHWA-HHC-30  
Mr. David Gibbs, FHWA-DFSS  
Ms. Karen Brunelle, FHWA-FLDIV  
Mr. Brian Telfair, FHWA-FLDIV  
Mr. David Hawk, FHWA-FLDIV

EXHIBIT B  
ORDINANCE NO. 7388

AN ORDINANCE AMENDING ORDINANCE NO. 6871 BY AMENDING ARTICLE II - "DEFINITIONS," ARTICLE XVI - "GENERAL COMMERCIAL - C-4 DISTRICT USE REGULATIONS," REPEALING ARTICLE XXIV IN ITS ENTIRETY AND ADDING A NEW ARTICLE XXIV ENTITLED "SIGNS," AMENDING ARTICLE XXVIII - "NON-CONFORMING BUILDINGS AND USES," REPEALING ALL LAWS IN CONFLICT HEREWITH AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, the City of Miami Planning and Zoning Board at a meeting held on March 3, 1965, passed and adopted Resolution No. 65-93 by an 8 to 0 vote pertaining to "Signs" providing for the definitions, C-4 District use regulations, the sign provisions in general and non-conforming uses, and

WHEREAS, the Commission deems it advisable in the interest of the general welfare of the City to amend the Comprehensive Zoning Ordinance insofar as the sign provisions are concerned;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. Article II of Ordinance No. 6871 is hereby amended by deleting from Section 2., existing sub-paragraphs (65), (66), (67), (68), (69), (70), (71), (72), (73), (74), (75), (76), (77), (78), (79), and (81) and (83).

Section 2. The following sub-paragraphs are hereby added to Article II - DEFINITIONS - Section 2., TERMS DEFINED:

(65) SIGN  
An identification, description, illustration, or device which is affixed to directly or indirectly upon a building, structure or land, and which directs attention to a product, place, activity, person, institution, or business and which is visible from any public street, waterway, alley or public place. National flags and flags of political subdivisions shall not be construed as signs.

(66) SIGN AREA  
The SIGN AREA shall be the area encompassed within any regular geometric figure which would enclose all parts of the sign. The structural supports for a sign, whether they be columns, a pylon, or a building or a part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in the computation of a sign area. The area of a cylindrical sign shall be computed by multiplying the diameter by the height of the sign and adding 50 percent (50%) to the result.

(67) Repealed

(68) SIGN, BANNER

A sign made of cloth, fabric, paper or similar-type material. National flags, flags of political subdivisions and symbolic flags of an institution or business (house flag) shall not be considered banners for the purpose of this Ordinance.

(69) Repealed

(70) SIGN, DETACHED

A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface, such as a fence or wall not a part of a building, shall be considered as a detached sign.

(71) SIGN, FLAT

Any sign painted on the outside of a building, or attached to and erected parallel to the face of a building, and supported throughout its length by such building and not extending more than eighteen (18) inches from the building wall.

(72) SIGN, GENERAL ADVERTISING

Any sign, other than an owner-identification sign, which directs attention to a business, commodity or service.

(73) Repealed

(74) SIGN, ILLUMINATED

Any sign designed to emit artificial light or designed to reflect light from one (1) or more sources of artificial light installed for the purpose of providing light for the sign.

(75) SIGN, MARQUEE

Any sign attached to, or supported by, a marquee structure. For the purpose of this Ordinance, a marquee sign shall be considered as a projecting sign.

(76) Repealed

(77) SIGN, OWNER-IDENTIFICATION

A sign which pertains only to the use of a premises and which, depending upon the district in which it is located, contains any or all of the following information:

1. The name of the owner, occupant, and/or management of the use;
2. The address of the use;
3. The kind of business and/or the brand name of the principal commodity sold on the premises;
4. Other information relative to a service or activity involved in the conduct of the business, but not including the names of subsidiary products except where specifically permitted by the provisions of this Ordinance.

(78) SIGN, PENNANT AND STREAMER

Any sign made of cloth, fabric, paper or similar-type material in the form of ribbons or strings of flags used as a decorative display.

(79) SIGN, PROJECTING

A sign which is attached to, and which projects from the face of a wall of a building. The term "PROJECTING SIGN" includes a marquee sign. A "PROJECTING SIGN" which extends more than thirty-six (36) inches above a roof line or parapet wall shall be designated as a "ROOF SIGN."

(81) SIGN, ROOF

A sign which is fastened to and supported by or on the roof of a building or which extends above the roof of a building.

(83) Repealed

Section 3. Article XVI - GENERAL COMMERCIAL C-4 DISTRICT,

Section 1., USE REGULATIONS, is hereby amended by adding new paragraphs as follows:

(15-A) General advertising signs, detached limited in area to seven-hundred and fifty (750) square feet, with not more than two (2) signs erected on any lot, even though a building is occupying a portion thereof, subject to the provisions of ARTICLE XXIV, Section 1.

(15-B) General advertising signs, flat, when located on the side wall of a building, subject to the following:

- (a) There shall be not more than one (1) such sign at any premise.
- (b) A sign of this nature and type shall be permitted only in an instance where no owner-identification sign exists on the same wall.
- (c) The area of any such sign shall not exceed the permitted area for an owner-identification sign, as provided for in Section 5. (1) of ARTICLE XXIV.

Section 4. Article XXIV - SIGNS - is repealed in its entirety and in

lieu thereof the following is hereby adopted:

ARTICLE XXIV - SIGNS

Section 1. - GENERAL SIGN PROVISIONS:

(1) PERMITS REQUIRED

- (a) No sign, unless herein excepted, shall be erected, constructed, altered, posted, painted, maintained, or located, except as provided in this ARTICLE and in these regulations, until a permit therefore has been issued by the Building Official.
- (b) Any sign requiring a permit shall be clearly marked with the permit number, and the name of the person or firm placing the sign on the premises.



(3) EXCEPTIONS TO PERMITS REQUIRED:

The following signs are exempted from the provisions of Section 1 (1) above and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the Building Code:

- (a) Official traffic signs or sign structures, and provisional warning signs or sign structures when erected or required to be erected by a legally-constituted governing body.
- (b) Changing of the copy of a bulletin board, poster board, display encasement or marquee, subject to compliance with the South Florida Building Code. The moving or relocating of sign embellishments previously approved by permit, provided that such a change does not result in an increase in the total area of the embellishment beyond the area that was approved in the original permit for the embellishment and subject to compliance with the South Florida Building Code.
- (c) Signs on a truck, bus, trailer, or other vehicle while in use in the normal course of a business.
- (d) Decorative flags and bunting for city-wide celebrations, conventions and commemorations when authorized by the City Commission for a prescribed period of time.
- (e) Symbolic flag and award flag of an institution or business (house flag), one (1) for each institution or business, or one for each fifty (50) feet of street frontage, on the premises.
- (f) Weather flags, for providing accurate information on weather conditions, one (1) set for each premises.
- (g) Temporary, non-illuminated, real estate signs, not more than four (4) square feet in area, advertising real estate for sale or lease, or announcing contemplated improvements of real estate, and located on the premises, one such sign for each street frontage.

- (h) Temporary, non-illuminated signs erected in connection with new construction work, when such signs do not exceed two (2) feet in height and three (3) feet in width, and are displayed only during such time as the actual construction work is in progress, provided that such signs are located at the site of the construction work in progress, one such sign for each street frontage.

(3) SIGNS EXTENDING BEYOND THE BASE BUILDING LINE AND OVER ALLEYS

- (a) No projecting sign shall extend more than four (4) feet beyond the Base Building Line, with the exception of a sign on a marquee which extended more than four (4) feet beyond the Base Building Line prior to the effective date of this Ordinance.
- (b) No projecting sign shall extend more than twenty-four (24) inches to the curb, with the exception of a sign on a marquee which was located nearer than twenty-four (24) inches to the curb prior to the effective date of this Ordinance.
- (c) No projecting sign shall have more than forty (40) square feet of sign area extending beyond the Base Building Line, except a sign on a marquee which exceeds forty (40) square feet of sign area extending beyond the Base Building Line prior to the effective date of this Ordinance, and except a sign provided for in Section 4. of this ARTICLE.
- (d) No sign extending beyond the Base Building Line shall be erected at a height less than nine (9) feet above the established street grade.
- (e) No sign extending over an alley shall be erected at a height less than fifteen (15) feet above the established street grade of the nearest street.

(4) SIGNS AND SIGN DEVICES PROHIBITED

- (a) No sign shall be constructed, erected, used, operated, or maintained so as to display intermittent

lights to the extent of confusing or distracting a motorist, so as to display intermittent lights resembling or seeming to resemble the flashing lights which are customarily associated with danger or which are customarily used by police, fire, or ambulance vehicles, or for navigational purposes;

- (b) No sign shall be constructed, erected, used, operated, or maintained which uses the word "Stop" or "Danger" or presents or implies the need or requirement for stopping, or the existence of danger, or which is a copy or imitation of an official sign. This provision regarding the words "Stop" and "Danger" does not apply when the words are a part of attraction titles for a broadcast, motion picture, theatre event, opera or concert, or when they are used in descriptive lines of advertising, so long as they are not used to simulate, copy, or imply any official traffic warning, either for vehicles or for pedestrians.
- (c) No sign shall be constructed, erected, used, operated, or maintained so as to provide a background of colored lights blending with the traffic signals to the extent of confusing a motorist when viewed from normal approaching position of a vehicle at a distance of twenty-five (25) to three-hundred (300) feet.
- (d) No sign shall be attached or otherwise applied to trees, utility poles, bus benches, trash receptacles, or any other unapproved supporting structure.
- (e) No sign shall have spinning, or strings of spinning, or similar-type devices.
- (f) Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, shall be prohibited.
- (g) Political signs, except political signs appearing as copy on general advertising structures, political signs on the premises of an authorized campaign headquarters, or political signs as permitted window signs in accordance with the regulations applicable to window signs shall be prohibited. This prohibition shall not apply to political signs on moving vehicles or to political signs on operable vehicles which are parked on private property, for a period not in excess of sixteen (16) hours on any one lot, during the time between qualification and election.
- (h) Signs attached to or placed on a vehicle (including trailers) that is parked on private property shall be prohibited. This provision is not to be construed as prohibiting the identification of a firm or its principal products on a vehicle operating during the normal course of business. Neither is it to be construed as prohibiting such identification on a vehicle when it is parked temporarily at a location other than the site where the business is located, provided that such parking of a vehicle takes place subject to the following conditions:

1. The duration of parking shall not exceed, except on weekends or nationally recognized holidays, a period of sixteen (16) hours.
2. The vehicle shall be parked within the confines of a building or in some other manner which provides for effective screening so as not to allow the signs on the vehicle to be viewed from any public street.

(5) APPEARANCE

- (a) All flat signs, projecting signs, and ground signs shall have concealed structural members except for vertical supports or other supporting members which are designed and arranged so as to be an integral part of the aesthetic composition of a sign. Signs in general shall present a good structural appearance and when attached to a building it shall appear to be an integral part of the building.
- (b) All structural members on roof signs shall be concealed by the covering of the members with an appropriate material or, at the discretion of the owner, painted with a white, light gray or neutral color, but excluding dark colors such as green, brown and red.
- (c) All signs shall be maintained in good condition so as to present a neat and orderly appearance. The Building Official may cause to be removed, after due notice has been given as provided in ARTICLE XXIX, Section 7, of this Ordinance, any sign which shows gross neglect, which becomes dilapidated or which has ground area around it that is not well maintained.

(6) VISION CLEARANCE

- (a) No sign or sign structure is to be placed or located so as to conflict with the vision clearance requirements of ARTICLE IV, Section 18 (1) and (2).

(7) ROOF SIGNS

- (a) No permits shall be issued for new roof signs after the enactment of this ordinance.

(8) PENNANTS, BANNERS, STREAMERS AND SIMILAR TYPE DEVICES

- (a) Pennants, banners, streamers, and similar type devices shall be prohibited twelve (12) months after the effective date of this regulation.

(9) GENERAL ADVERTISING SIGNS

- (a) The following waterways within the City of Miami are hereby designated as "Scenic Waterways:"
  1. The Miami River and Miami Canal
  2. Biscayne Bay

No general advertising sign shall be erected or altered along a designated Scenic Waterway within two-hundred (200) feet of the official harbor line, or where no official harbor line has been established, within two-hundred (200) feet of the existing bank, unless the sign is erected or altered so that any surface displaying advertising is oriented so as to be viewed primarily from a direction other than from along the Scenic Waterway and unless the orientation of the sign does not allow any surface displaying advertising to be perceptible along the Scenic Waterway from any point greater than six-hundred (600) feet from the nearest point on a sign structure. Within two-hundred (200) feet of a Scenic Waterway, any portion of a sign structure viewed from a Scenic Waterway either shall be effectively landscaped, or shall be painted with a light-blue or similar colored paint so as to present an attractive appearance when viewed from the Scenic Waterway.

(b) No general advertising sign shall be erected, constructed, altered, maintained or relocated within six-hundred (600) feet of the right-of-way lines of any limited access highway, including expressways, as established by the State of Florida or any of its political subdivisions; unless such sign is parallel to, or at an angle of not greater than thirty (30) degrees with the centerline of any such limited access highway and unless such sign is also faced away from any such highway.

(10) SIGNS ON BISCAYNE BOULEVARD

(a) Notwithstanding any other provisions of this Ordinance, no sign shall be erected, placed, or constructed along Biscayne Boulevard, between N. E. 13th Street and N. E. 87th Street, so as to result in any signs extending beyond the Base Building Line of Biscayne Boulevard or any parkway in said street.

(11) SETBACK REGULATIONS

(a) All signs shall comply with yard requirements of the zoning district in which they are located, unless otherwise specified in these regulations.

(12) ILLEGAL SIGNS

(a) The Building Official shall have authority to remove or cause to be removed, any sign erected, painted, or maintained in conflict with these regulations or with other laws or Ordinances. The materials obtained from such a move may be appropriated by the City of Miami to offset the cost of removal. The removal of a sign by the Building Department shall not affect any proceedings instituted prior to the removal of such sign.

(13) NON-CONFORMING SIGNS

(a) All non-conforming signs shall be subject to the provisions of ARTICLE XXVII, Section 3 (3) (a); unless otherwise exempted from such provisions.

(14) VACATED BUILDINGS

(a) Any owner-identification signs advertising a commodity or service previously associated with a premise which is vacated shall be removed from the premises by the owner or lessee not later than six (6) months from the time such activity ceases to exist, or shall be altered or resurfaced by the owner or lessee within the same six months period so that the sign will not display letters, numerals, symbols, figures, designs, or any other device for visual communication that would pertain to the activity formerly associated with the vacated premises.

(15) LIGHTING

(a) No sign shall be illuminated or flashing unless specifically provided by the provisions of this Ordinance.

(b) Flashing signs shall not be located within one-hundred (100) feet of any property in a residential district as measured along the street frontage on the same side of the street or as measured by a straight line to property across the street, if such sign is visible from the residential district.

(16) DETACHED SIGNS

(a) In residential districts, detached signs shall not exceed a height of twenty (20) feet above the grade of street to which the sign is oriented.

(b) In commercial and industrial districts, detached signs shall not exceed a height of thirty (30) feet above the grade of street to which sign is oriented.

(17) PERMITTED SIGNS FOR NON-CONFORMING USES

(a) A non-conforming use in a residential district shall be permitted to have one (1) sign of the type permitted in the R-3, R-3A, R-4, R-5, R-5A, R-C and R-CA districts.

(b) A non-conforming use in a commercial or industrial district shall be permitted to have those signs permitted in the district in which said non-conforming use is located.

Section 2, SIGNS IN THE R-1, R-1A, R-1B, R-2 AND R-PD DISTRICTS

Signs, non-illuminated, owner-identification, are permitted as accessory uses as follows:

(1) Name plate, one (1) for each street frontage on the premises; two (2) square feet in area, to identify the owner or occupant of a dwelling or building.

(2) Private directional sign, one (1) for each street frontage on the premises, one (1) square foot in area.

- (3) A sign, limited in area to ten (10) square feet, for the identification of a subdivision or development.
- (4) An owner-identification sign, limited in area to twenty (20) square feet, one (1) for each street frontage on the premises, for the identification of permitted non-residential uses, other than the home occupation permitted by ARTICLE V, Section 1 (8).
- (5) Real Estate sign, one (1) for each street frontage on the premises, limited in area to four (4) square feet in area.
- (6) Construction sign, one (1) for each street frontage on the premises, limited in size to two (2) feet in height and three (3) feet in width, erected in connection with new construction work in progress.
- (7) One (1) permitted sign may be located in a required yard, provided said sign is not located nearer than ten (10) feet to any base building line.

Section 3. SIGNS IN THE R-3, R-3A, R-4, R-5, R-5A, R-C AND R-CA DISTRICTS.

Signs, illuminated or non-illuminated, owner-identification, are permitted as accessory uses as follows:

- (1) A name plate, two (2) square feet in area, to identify the owner or occupant of a dwelling or building.
- (2) Flat sign, one (1) facing each street frontage. The sign area shall be limited to forty (40) square feet, provided, however, that the permitted area of the flat sign may be increased by one (1) percent for each foot above the first ten (10) feet of building height above grade; that the lowest point of the sign is placed upon the building.
- (3) Projecting or detached sign, one (1) located adjacent to each street frontage. The sign area shall be limited to forty (40) square feet, for each face.
- (4) Two (2) directional signs, with the sign area not exceeding one (1) square foot for each sign.
- (5) Real Estate sign, one (1) for each street frontage on the premises, limited in area to four (4) square feet in area.
- (6) Construction sign, one (1) for each street frontage limited to forty (40) square feet in area, erected in connection with new construction work, and displayed only during such times as the actual construction work is in progress.
- (7) The two (2) directional signs and one (1) other sign permitted by this section may be located in a required yard, provided that said signs are not located nearer than two (10) feet to any base building line.



Section 4. SIGNS IN THE C-1, C-1A, C-2, C-3, W-R AND W-1 DISTRICTS

Signs, illuminated or non-illuminated are permitted as accessory uses as follows:

- (1) Flat signs, owner-identification, shall not exceed an aggregate sign area of two and one-half (2 1/2) square feet of area for each lineal foot of wall fronting on a street when any portion of such sign is within fifteen (15) feet above grade. The permitted sign area may be increased by one (1) percent for each foot above the first fifteen (15) feet of building height above grade, that the lowest point of the sign is placed upon the building. Flat signs shall be located on the street frontage on which the permitted sign area is based, provided, however, that one (1) of the three signs permitted for each street frontage may be located on a side wall, provided further that such sign is included as part of the total permitted aggregate sign area.
- (2) Projecting signs, owner-identification, shall not exceed one (1) for each business on the premises, with the sign area limited to forty (40) square feet for each face. However, projecting signs erected in the C-3 District may be increased in area as follows:

<u>MAXIMUM PROJECTION FROM FACE OF BUILDING</u>	<u>AREA</u>
Two (2) feet or less	80 square feet
More than two (2) feet but less than three (3) feet	60 square feet
More than three (3) feet but not more than four (4) feet	40 square feet

- (3) Detached signs, owner-identification, shall be limited to one (1) sign and to forty (40) square feet of area (for each face) for each business or for each fifty (50) feet of street frontage. The permitted sign area for detached signs may be cumulative, but no one (1) sign shall exceed one-hundred (100) square feet in area for each face.
- (4) Signs attached to the bottom of a marquee, shall not exceed one (1) for each business on the premises, with sign area limited to three (3) square feet, maintaining an elevation of at least nine (9) feet above grade.
- (5) Non-illuminated paper or painted signs in windows shall not exceed twenty percent (20%) of the total glass area of the window in which they are placed, and shall be included as part of the permitted aggregate flat sign area.
- (6) Directional signs, giving directions to motorists regarding the location of parking areas and access drives, shall not exceed five (5) square feet in area.



- (7) Real Estate signs shall not exceed one (1) for each street frontage and shall be limited in size to fifty (50) percent of the area permitted for the same type of permanent sign.
- (8) Construction signs shall not exceed one (1) for each street frontage and shall be limited in size to fifty percent (50%) of the area permitted for a permanent sign the same type.
- (9) Owner-identification signs may have not more than fifty percent (50%) of their actual area devoted to the advertising of subsidiary products sold on the premises.

**Section 5. SIGNS IN THE C-4, C-5, I-1 and I-2 DISTRICTS**

Signs, illuminated or non-illuminated, flashing or non-flashing, are permitted as accessory uses as follows:

- (1) Flat signs, owner-identification, shall not exceed an aggregate sign area of three and one-half (3 1/2) square feet of area for each lineal foot of wall fronting on a street when any portion of such sign is within fifteen (15) feet above grade. The permitted sign area may be increased by one (1) percent for each foot above the first fifteen (15) feet of building height above grade, that the lowest point of the sign is placed on the building. Flat signs shall be located on the street frontage on which the permitted sign area is based, provided, however, that one (1) of the three signs permitted for each street frontage may be located on a side wall, provided that such sign is included as part of the total permitted aggregate sign area.
- (2) Projecting signs, owner-identification, shall not exceed one (1) for each business on the premises, with the sign area limited to forty (40) square feet for each face.
- (3) Detached signs, owner-identification, shall be limited to one (1) sign and to forty (40) square feet of area (for each face) for each business or for each fifty (50) feet of street frontage. Permitted sign area for detached signs may be cumulative, but no one (1) sign shall exceed two-hundred (200) square feet in area for each face.
- (4) Signs attached to the bottom of a marquee, shall not exceed one (1) for each business on the premises, with sign area limited to three (3) square feet for each such sign.
- (5) Non-illuminated paper or painted signs in windows shall not exceed twenty percent (20%) of the total glass area of the window in which they are placed, and shall be included as part of the permitted aggregate flat sign area.
- (6) Directional signs, giving directions to motorists regarding the location of parking area and access drives, shall not exceed ten (10) square feet in area.

- (7) Real Estate signs shall not exceed one (1) for each street frontage and shall be limited in size to fifty percent (50%) of the area permitted for a permanent sign of the same type.
- (8) Construction sign, shall not exceed one (1) for each street frontage and shall be limited in size to fifty percent (50%) of the area permitted for a permanent sign of the same type.
- (9) Owner-identification signs may have not more than fifty percent (50%) of their actual area devoted to the advertising of subsidiary products sold on the premises.

Section 5. Article XXVIII - NON-CONFORMING BUILDINGS AND USES.

Section 3, is hereby amended by adding a new sub-paragraph (3), (b) as follows:

- (b) Any sign, except a roof sign, which may become non-conforming as a result of any amendments to this Ordinance shall be completely removed from the premises, or altered to conform, not later than five (5) years from the date on which such use becomes non-conforming. Roof signs, and their supporting members, shall be completely removed from the premises not later than twelve (12) years from the date on which they become non-conforming.

Section 6. All laws, or parts of law, in conflict herewith, be and the same are hereby repealed insofar as the above described land is involved.

Section 7. It is declared to be the legislative intent of this body that if any section, subsection, sentence, phrase or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 8. This ordinance shall become effective on October 1, 1965.

PASSED ON FIRST READING BY TITLE ONLY this 14th day of July, 1965.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY TITLE ONLY this 20th day of July, 1965.

ROBERT KING HIGH  
MAYOR

F. L. CORRELL  
CITY CLERK

Miami, Florida, Code of Ordinances >> PART II - THE CODE >> Chapter 62 - ZONING AND PLANNING  
>> ARTICLE XIII. - ZONING APPROVAL FOR TEMPORARY USES AND OCCUPANCIES; PERMIT  
REQUIRED >> DIVISION 5. - MURALS >>

[171]

DIVISION 5. - MURALS

- Sec. 62-601. - Purpose of sign regulations; applicability; criteria.  
Sec. 62-602. - Definitions.  
Sec. 62-603. - Qualified applicants; procedure for application; requirements.  
Sec. 62-604. - Mural permit required; application for a mural permit by a qualified applicant.  
Sec. 62-605. - Approval process for permit.  
Sec. 62-606. - Criteria for issuing a mural permit.  
Sec. 62-607. - Permit participation fees, permit renewal fees, and contributions to trust fund.  
Sec. 62-608. - Approval by the city zoning administrator.  
Sec. 62-609. - Copy change and location change applications.  
Sec. 62-610. - Assignment.  
Sec. 62-611. - Exemptions.  
Sec. 62-612. - Enforcement.  
Sec. 62-613. - Maintenance.  
Sec. 62-614. - Conflict.  
Sec. 62-615. - Renewal.  
Sec. 62-616. - Rescission.  
Sec. 62-617. - Appeals.  
Sec. 62-618. - Opt-out provision.

**Sec. 62-601.- Purpose of sign regulations; applicability; criteria.**

*Intent.* It is the intent of the city commission that the display of art or graphics on buildings and walls be permitted within certain commercial and special districts of the city in order to aesthetically enhance otherwise blank walls and unoccupied buildings and that the funds generated by permits issued with respect to such displays be utilized to ensure quality of life and prevention of visual clutter or blight.

The procedures established in this article will allow for the pre-qualification of applicants to display art or graphics on buildings and walls. Once qualified, such pre-qualified applicants will be allowed to file for a class I special permit (the "mural permit").

Mural permits will be issued by the city zoning administrator upon their determination that the applicant has complied with the criteria set forth in this article, including the payment of all required fees and contributions. To the extent permissible by law, all fees and contributions received by the city pursuant to the terms of this article shall be used to promote quality of life by regulating all murals to ensure that the city's residents are not exposed to visual blight or clutter.

Upon the award of a mural permit by the city zoning administrator, the holder of such a mural permit shall be allowed to obtain all required building permits. Changes in art work or other relevant copy (including text or commercial messages) will only be permitted upon the approval of a subsequent permit for a change of copy.

Strict compliance with the provisions of this article must be maintained during the term of the mural permit. Failure of the holder of a mural permit to remain in compliance with the terms of this article shall result in the revocation of all its mural permit and the forfeiture of the right to apply for any subsequent mural permit(s).

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-602.- Definitions.**

For the purpose of this article, the following definitions shall apply:

*Affiliate* is any person who is an owner, shareholder, member, partner, agent, officer or director of an applicant seeking to be qualified by the city zoning administrator to apply for a mural permit pursuant to this article.

**Exhibit C**

*Applicant* is any person or entity who, pursuant to section 62-603, is seeking to be qualified by the city zoning administrator to apply for a mural permit pursuant to this article.

*Commercial message* includes a trademark, commercially recognized display, copyright or service mark of a sponsor, including any text or logos or representation of the name or commercial product, trademark or service mark of the sponsor; such commercial message may be of offsite products or businesses as applicable to the sponsorship.

*Copy change application* is an application by the holder of a mural permit to change the mural face.

*Geographical area* is the mural area described in exhibit "A" attached hereto and incorporated herein by reference, as amended from time to time by the city commission.

*Government-owned building* is any building owned by the United States Government, the State of Florida (the "state"), Miami-Dade County (the "County"), the Miami-Dade School Board, the city, any dependent or independent special tax district, or any agency of any of the foregoing governments.

*Licensee* is any person or entity who holds or obtains or has been issued a state license for outdoor advertising.

*Location change application* is an application by the holder of a mural permit to change the location of a previously approved mural permit.

*Lottery* is the process described in section 62-605 for the approval of mural permits. The initial lottery date is May 12, 2008.

*Mural* is a painting or artistic work (including collage effects) composed of pictures or arrangements of color which may have a limited commercial sponsorship message, advertises a commercial product and which is made directly onto, projected onto or attached to a building or a wall.

*Mural face* is the entire face of the mural including all text, artwork, and commercial messages incorporated into a mural.

*Permittee* is a person or entity who is the holder of an approved mural permit.

*Qualified applicant* is any person or entity who, pursuant to section 62-603, has been qualified by the city zoning administrator to apply for a mural permit and is not an affiliate of another qualified applicant.

*Small business enterprise* is a business enterprise that qualifies as a small business enterprise pursuant to applicable state and federal laws and the rules and regulations of Miami-Dade County, as amended from time to time.

*Wall* is the exterior surface of a building capable of being occupied, including surfaces free of windows or devoid of occupants behind the area where the mural is to be placed. Surfaces constructed on roof tops (other than a roof parapet) shall not be considered walls for purposes of this article.

Notwithstanding anything herein to the contrary, subject to the conditions listed below and the written permission of the city zoning administrator, murals will be permitted to be placed on walls with windows of commercial buildings only, and on the exterior walls of a parking garage or a parking pedestal provided that such murals:

- (1) Are not directly facing residential units;
- (2) Are made of perforated vinyl mesh or adhesive backed and are transparent to the occupants of the commercial building;
- (3) Do not prevent the opening of windows intended to be opened; and
- (4) Do not prevent ingress and egress. In no event, may a mural be placed so as to cover any residential units, including residential liners.

(Ord. No. 12983, § 2, 4-10-08; Ord. No. 13183, § 2, 6-10-10)

#### **Sec. 62-603.- Qualified applicants; procedure for application; requirements.**

An applicant shall submit an application to the city zoning administrator for the purposes of qualifying said applicant as a qualified applicant by May 6, 2008. Such application shall include the following:

- (1) The name, address, phone number and other pertinent information of the applicant, and if the applicant is an entity, such as a corporation, limited liability company, or partnership, the names and business addresses of the principal officers, managers, and other persons who own more than five percent of the entity;

- (2) Payment of a non-refundable, pre-qualification administrative fee in the amount of \$500.00;
- (3) Payment in full and delivery to the city finance director of a pre-qualification fee in the amount of \$10,000.00 (the "qualification fee"). Payment must be made by cashier's check, certified check or United States Postal money order. The qualification fee shall be refunded to the applicant if the city zoning administrator determines that the applicant does not qualify as a qualified applicant;
- (4) Proof, reasonably satisfactory to the city risk management administrator, that the applicant has (and can maintain at all times) public liability insurance in the amount of \$3,000,000.00;
- (5) Proof in the form of a signed affidavit(s) stating that the applicant or in the case of an entity, that a majority of the applicant's principal officers or managers (each of whom shall submit a signed affidavit) has or have had experience in the outdoor advertising industry for a minimum of five years prior to the date of application;
- (6) Proof in the form of copies of all required city and county business tax receipts, evidencing the fact that the applicant has an office or local presence within the city to ensure an immediate response in the event of an emergency;
- (7) Proof in the form of copies of a memorandum of lease sworn to by affidavit which indicates relevant information regarding control of the mural site and which shows that the applicant or its affiliate has executed and enforceable leases for a minimum of five mural sites within the geographic area;
- (8) Proof that the applicant had gross revenue of at least \$2,000,000.00 in the outdoor advertising industry during each of the three years preceding the date of the application;
- (9) Proof that the applicant is in good standing with the city and the county for any pending code enforcement matters related to mural violations. No individual, business, building owner, or affiliate of an individual, business or building owner may apply for a mural permit if that person or entity has displayed a mural within 15 calendar days, beginning on April 20, 2008, in which event; the site, building, or entity will be precluded from participating in the Lottery;
- (10) Proof that applicant will post a bond or letter of credit in the amount of \$500,000.00 in a form reasonably acceptable to the city risk management administrator, at the time of issuance of the mural permit. The city shall be authorized to collect on the bond or letter of credit in the event the permittee is found to be in non-compliance with any provision of this article and any fines assessed in respect of such non-compliance are not paid within 30 days of the assessment or if the city is required to send personnel to ensure compliance with any provision of this article. The city shall be authorized to collect against the bond or letter of credit all fees, fines, and penalties; together with expenses incurred by it with respect to such personnel, including, but not limited to, the costs associated with the investigation and determination of the violation;
- (11) Proof that the applicant has contracted with one or more small business enterprise(s) (as a consultant, joint-venture partner, vendor or otherwise) to which ten percent or more of the applicant's operating expenses would be paid in the event the applicant is approved as a qualified applicant and obtains a permit for a mural and that the applicant consents to submitting financial records demonstrating compliance with this provision; and
- (12) Proof that the applicant is a licensee.

An individual, business, building owner or affiliate of an individual, business, or building owner may not apply for a mural permit if that person or entity has failed to fully resolve and close (without mitigation) any notice of violation or open code enforcement matter of any section of this Code or zoning ordinance 11000, as amended (the "zoning ordinance") prior to the submission of the application for participation in the lottery. Furthermore, if a prospective site or building has displayed a mural or outdoor advertising sign in violation of the zoning ordinance within five years prior to the date of the lottery, the qualified applicant shall tender, as a result of such non-compliance, a partially refundable fee in the amount of three times the qualification fee, of which \$10,000.00 may be refunded if the application is not approved.

Unless otherwise indicated, all proof required to be submitted by this section may be in the form of an affidavit signed by the applicant or a duly authorized representative of the applicant. Upon the submission of all items required to be submitted under this section 62-603, the city zoning administrator shall review and approve or deny, no later than 30 days of its submission, the applicant's application for qualification as a qualified applicant. If the application is denied, the city zoning administrator shall advise the applicant in writing of the reasons for the denial of the application. The applicant must cure all defects prior to May 9, 2008.

(Ord. No. 12983, § 2, 4-10-08)

Editor's note— Ord. No. 12983, § 2, adopted April 10, 2008, enacted provisions intended for use as subsections (a)—(l). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(12).

#### **Sec. 62-604.- Mural permit required; application for a mural permit by a qualified applicant.**

Murals may not be erected, hung, placed, posted, painted, displayed, or maintained in the city except as provided by this article. The city shall issue no more than 35 mural permits at any one time; however, no more than 20 mural permits may be issued at any one time and in any one city commission district. An applicant shall submit

to the city zoning administrator a single permit application listing each and every site sought to be permitted.

A qualified applicant's permit application shall contain the following for each site sought to be permitted:

- (1) Dimensioned elevation drawing and photo of the wall where the mural is to be located.
- (2) A colored drawing or colored computer simulation depicting the mural face.
- (3) Two photographs or two computer simulations depicting the wall and the mural superimposed on the wall.
- (4) A certified spacing survey showing compliance with this article, if applicable.
- (5) Copy of the city's zoning atlas where the mural is to be located.
- (6) Payment of a non-refundable administrative fee in the amount of \$500.00.
- (7) A memorandum of lease, sworn to by affidavit, of an executed and enforceable lease for the site sought to be permitted.
- (8) The address and the folio number of the subject building and the specific wall on the building upon which the mural would be attached.
- (9) Proof that the building address of the wall in question does not have any outstanding civil violations of this Code.
- (10) Moved to subsection 62-605(9).

(Ord. No. 12983, § 2, 4-10-08)

*Editor's note— Ord. No. 12983, § 2, adopted April 10, 2008, enacted provisions intended for use as subsections (a)—(j). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(10).*

#### **Sec. 62-605.- Approval process for permit.**

The following shall be the procedure followed for the approval of a mural permit:

- (1) The city zoning administrator shall notify each qualified applicant of the date and time of all lottery rounds. There shall be one lottery for each round of approvals commencing with the highest priority site submitted by each qualified applicant. The number of rounds scheduled shall equal the greatest number of lease sites submitted in any single application.
- (2) Each qualified applicant will receive one assigned number through the lottery process for each round.
- (3) Each qualified applicant may only submit one application which shall include each distinct Wall sought to be permitted. If more than one permit is sought, the qualified applicant shall list the walls sought to be permitted.
- (4) An affiliate of a qualified applicant shall not be an affiliate of another qualified applicant.
- (5) For each round, the city zoning administrator shall review each qualified applicant's site in the order of assigned number pursuant to the lottery for each specific round. At the end of the selection made at each round, a qualified applicant may reprioritize the list of sites.
- (6) In the numerical order assigned to each qualified applicant for a given round, the city zoning administrator shall review the first priority site for each qualified applicant and shall conditionally approve sites meeting the required criteria. Thereafter, the city zoning administrator shall, in the numerical order assigned to each qualified applicant for the immediate subsequent round, review for conditional approval a site listed by the qualified applicants and so on.
- (7) In the event that a site is determined to not meet the required criteria, the next eligible site in the qualified applicant's list, if any, shall be reviewed for conditional approval.
- (8) Locations will be approved until a maximum of 35 sites have been approved.
- (9) Proof that each individual wall sought to be permitted exists and is fully built, and that the wall has not been used to display a mural since April 20, 2008.
- (10) The city zoning administrator shall advise qualified applicants of the contingent approval of an application for a mural permit, and shall refer all such mural applications to the county for their determination of compliance with the county ordinance. Upon receipt by the city zoning administrator of notice from the county confirming compliance with the county ordinance, and the payment of all applicable fees for each conditionally approved application, the city zoning administrator shall issue a mural permit for each approved site within 30 days from receipt of such notice from the county.
- (11) Mural permits shall be granted to the qualified applicants only in accordance with the procedures set forth in this section 62-605.
- (12) Mural permits will be issued on June 13, 2008, provided that the applicant provides proof that all murals have been removed since April 20, 2008.

(Ord. No. 12983, § 2, 4-10-08)

*Editor's note— Ord. No. 12983, § 2, adopted April 10, 2008, enacted provisions intended for use as subsections (a)—(i). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)—(12).*

**Sec. 62-606.- Criteria for issuing a mural permit.**

As part of the review and qualification process, the city zoning administrator shall apply the following criteria:

- (1) *Geographical area.* No more than 35 mural permits may be issued and outstanding at any one time. Mural permits shall only be issued within the mural geographical area, as delineated in exhibit "A" and kept on file in the city clerk's office and the department of zoning.
- (2) *Zoning districts.* Murals shall only be permitted within portions of the following zoning districts: T6-8, T6-12, T6-24, T6-36, T6-60, T6-80, C1, C1-HD, D1 and D3 as described in the zoning ordinance. Murals outside these zoning districts shall be in violation of this Code and ordinances.
- (3) *Spacing between murals and number of murals allowed per building.* A mural shall not be located within 300 feet of another legally permitted mural oriented towards the same side of the street. The distance shall be measured in a straight line from the closest edge of the mural sign on one building to the closest edge of the mural sign on the other building. The spacing requirement provided herein shall not apply within the City Park West entertainment district.  
If two murals are permitted for any one building, they must be on different sides of the building and each such mural shall be required to obtain a separate mural permit for each street front. This section shall not preclude a mural on one building which is continuous on two sides of the building, commonly referred to as a wrap-around mural. A wrap-around mural shall be counted as one mural for purposes of fees and the maximum number of mural permits which may be issued pursuant to this article.
- (4) *Spacing from single family residential district.* The distance of a mural located on any building shall be calculated by measuring the distance of the mural at ground level to the property line of any parcel designated as R-1 or R-2. A mural shall not be located on a wall that is within 300 feet of any property zoned R-1 or R-2 or 100 feet from any non-conforming single family or duplex residential property.
- (5) *Size.* Murals shall be allowed to cover up to 80 percent of a wall, or 33 percent of a wall if the mural covers windows. In any event, a mural may not be greater than 10,000 square feet.
- (6) *Commercial message.* The mural face shall be predominantly pictorial with text limited to no more than 15 percent of the mural face.
- (7) *Illumination.* The illumination of a mural shall only be by indirect lighting, and shall only be permitted from 6:00 p.m. to midnight Standard Time and 7:00 p.m. to midnight Day Light Savings Time, and only in accordance with Miami-Dade County Code sections 33-46 and 33-107, as amended.
- (8) *Location.* Murals shall be placed only on walls.
- (9) *Public safety.* Mural faces shall not have any moving or animated parts, or any other electronic movements, and shall not be illuminated in such a manner so as to cause glare or to impair the vision of motorists or otherwise distract motorists and interfere with their ability to safely operate their vehicles. Murals shall also comply with all applicable laws, rules and regulations of the federal, state and county governments; and in addition, any proposed amendments to this article shall be consistent with applicable federal, state and county laws and ordinances in effect at the time of such amendment.  
In the event the National Hurricane Center issues a hurricane warning to the county, the permittee shall remove all murals within 24 hours of the issuance of a hurricane warning. In the event a mural is not so removed, enforcement proceedings shall immediately commence pursuant to section 62-612.
- (10) *Adult content.* Adult content, as defined in the zoning ordinance, shall be prohibited on murals.
- (11) *Unoccupied buildings.* A mural shall not be permitted on an unoccupied building that does not possess a valid city certificate of occupancy or certificate of use or on a building that does not possess a 40-year certification, if applicable.
- (12) *Term.* The initial term of a mural permit issued pursuant to this article shall expire upon the expiration date of the county ordinance. Should the expiration date of the county ordinance be extended or should the county approve a new ordinance to replace the county ordinance, the city commission, at its discretion, reserves the right to extend the term of all mural permits then issued and outstanding or issue new mural permits in accordance with the procedures set forth in this article.

(Ord. No. 12983, § 2, 4-10-08; Ord. No. 13183, § 2, 6-10-10)

*Editor's note— Ord. No. 12983, § 2, adopted April 10, 2008, enacted provisions intended for use as subsections (a)–(l). To preserve the style of this Code, and at the discretion of the editor, said provisions have been redesignated as subsections (1)–(12).*

**Sec. 62-607.- Permit participation fees, permit renewal fees, and contributions to trust fund.**

The permittee shall pay a permit fee equal to \$1.00 per square foot of mural face for each mural permit; which fee shall, in no event, be less than \$48,000.00 or greater than \$120,000.00 per annum (the "permit fee").

The permit fee shall be due and payable, in its entirety, prior to the installation of the mural, but, in any event, no later than 30 days after receipt of a mural permit. The permit fee is in addition to any non-refundable fees charged pursuant to this article. Late payments shall accrue interest at the rate of 18 percent per annum until paid.

(Ord. No. 12983, § 2, 4-10-08)

#### **Sec. 62-608.- Approval by the city zoning administrator.**

The city zoning administrator shall be responsible for the approval of all mural permits. The city zoning administrator may approve, approve with modifications, or deny a permit application upon a finding that the application does or does not meet the applicable criteria set forth in this article.

The city zoning administrator shall keep an updated map and photos depicting the locations of all approved mural permits.

A permittee shall have 120 days from the issuance a mural permit to install a mural at the approved site. Should the permittee fail to install the permitted mural within [the] 120-day period, the city zoning administrator shall rescind the mural permit.

(Ord. No. 12983, § 2, 4-10-08)

#### **Sec. 62-609.- Copy change and location change applications.**

(a) *Copy change application.* An annual copy change fee of \$6,000.00 shall be paid for each permit. Thereafter, a permittee may change the mural face by filing a copy change application and paying related fees. Such application shall be submitted to the city zoning administrator and include the following:

- (1) A colored drawing or colored computer simulation depicting the mural face.
- (2) Two photographs or two computer simulations depicting the wall and the mural superimposed on the wall.

The city zoning administrator shall, within five business days after receipt of the copy change application, have the opportunity to deny with written notice. A copy change application that is not denied in the time provided shall be deemed an approval. A written denial shall be provided to the permittee indicating the reasons for the denial. The city zoning administrator shall not approve a change to the mural face if such approval results in an increase of any of the linear dimensions of the previously permitted mural face.

(b) *Location change application.* A mural permit shall be transferable to a new location only if the permittee submits a location change application and such application are approved by the city zoning administrator. The city zoning administrator shall approve such application only if:

- (1) The location change is for cause, which shall be limited to:
  - a. The lease for the location of the mural permit is cancelled due to circumstances not within the permittee's control or that were not reasonably foreseeable to the permittee when it submitted its permit application or the lease is not renewed upon the natural expiration of the term of the lease;
  - b. The building or structure where the mural is located is demolished, sold, destroyed, or renovated; or
  - c. An intervening building or structure is constructed which substantially diminishes the visibility of the mural.
- (2) The new location for the mural is approved by the city zoning administrator in accordance with the provisions of section 62-604.
- (3) The permittee pays a non-refundable administrative fee in the amount of \$500.00, and a location change fee in the amount of \$1,000.00, which location change fee shall be refunded if the application is denied.

The city zoning administrator shall, within 20 days after receipt of the location change application, approve or deny the location change application in accordance with the provisions of this article. A written denial shall be provided to the permittee indicating the reasons for the denial and refunding the location change fee.

(Ord. No. 12983, § 2, 4-10-08)

#### **Sec. 62-610.- Assignment.**

Upon the payment of a \$2,500.00 assignment fee, a mural permit may be transferred to an entity found to be a qualified applicant by the zoning administrator.

(Ord. No. 12983, § 2, 4-10-08)



**Sec. 62-611.- Exemptions.**

Temporary permits for murals placed on government-owned buildings may be granted by the city zoning administrator and shall be exempt from the provisions of this article. A temporary permit may only be granted for murals depicting special events with citywide or countywide significance, and shall be granted for a period not to exceed 14 days, except that the city zoning administrator may, for good cause, grant one extension for a period not to exceed ten days.

Other than as accepted above in this section 62-611, there shall be no exemption from this article for murals placed on government-owned buildings, and such murals shall be subject to the provisions of this article, including, but not limited to, the maximum number of mural permits that may be issued by the city zoning administrator.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-612.- Enforcement.**

In the event of a violation of the terms of this article including the erection of a mural without a permit, a civil penalty may be assessed or enforcement proceedings may be instituted with the city's code enforcement special masters. Each violation shall carry a civil penalty of \$1,000.00 per day or such greater penalties as are permitted by the county ordinance. The city may employ all penalties and remedies set forth in chapter 2, article X entitled "code enforcement." This provision is supplemental to all other remedies and penalties provided by law. Decisions of the code enforcement special master shall be final and may be appealed to a court of competent jurisdiction within the times and in the manner provided by the Florida Rules of Appellate Procedure, and the laws of the state and this Code.

The city shall be authorized to collect against the bond or letter of credit all fees, fines and penalties, as well as all expenses incurred by the enforcement of this article.

In the event a permittee is found to be in non-compliance by the code enforcement special master of the city or the county equivalent for any mural located within the county, any and all mural permits issued to such permittee pursuant to this article shall be immediately rescinded and the permittee shall forfeit the right to apply for any subsequent mural permits. A notice of rescission shall be provided to the permittee, and require the permittee to remove all murals permitted pursuant to this article within five days of receipt of such notice. If the permittee fails to remove the mural(s) after receipt of such notice, enforcement proceedings and fines shall be immediately initiated in accordance with section 62-612.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-613.- Maintenance.**

In the event a city code enforcement inspector finds that any mural permitted pursuant to this article is not being maintained in good repair or appears faded, torn, or in similar condition of deterioration, the code enforcement inspector shall send written notification of their findings to the permittee and the city zoning administrator and shall order the permittee to repair the mural within ten days after receipt of such written notice. In the event the permittee fails to repair the mural to the satisfaction of the code enforcement inspector, the city zoning administrator shall initiate proceedings to rescind the mural permit under section 62-612.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-614.- Conflict.**

Notwithstanding any city ordinance to the contrary, this article shall exclusively control the legality, permitting, and approval process for murals in the city. Only murals authorized by this article shall be permitted in the city. Any murals not so authorized are hereby prohibited.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-615.- Renewal.**

In the event the expiration date of the county ordinance is extended or should the county approve a new ordinance to replace the county ordinance, and the city commission, at its discretion, extends the term of any mural permits then issued and outstanding or issues new mural permits in accordance with the procedures set forth in this article, all permittee's shall be required to pay a renewal fee for each mural Permit in an amount equal to one-twelfth of their annual permit fee. Thereafter, all permittee's shall be required to pay a renewal fee for each mural permit equal to one-twenty-fourth of their annual permit fee. In the event any renewal fee is not paid, the city shall immediately rescind the mural permit.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-616.- Rescission.**

In the event this article is rescinded by the city commission, all murals approved pursuant to this article shall be removed within 60 days from the date of such rescission or within the time for removal set forth in the county ordinance, whichever is sooner.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-617.- Appeals.**

Any decisions of the city zoning administrator pursuant to this article may be appealed to the city commission.

(Ord. No. 12983, § 2, 4-10-08)

**Sec. 62-618.- Opt-out provision.**

The city opts-out of chapter 33, article 6, division 5 of the Miami-Dade County Code of Ordinances, as amended, per section 33-121.11 as applicable to murals, but expressly retains and adopts such regulations relating to other types of off-site advertising. The city has adopted the rules contained in this article, to regulate murals within the urban core and in proximity to expressways.

(Ord. No. 13006, § 2, 6-12-08)

**FOOTNOTE(S):**

<sup>(171)</sup> *Editor's note— Ord. No. 13175, § 2, adopted May 13, 2010, designated the former provisions of article XIII (§§ 62-601—62-618) as division 5. (Back)*

1950's - Entryway from I-395 to Downtown Miami. Signs located along Biscayne Bay and along fuel tanks.

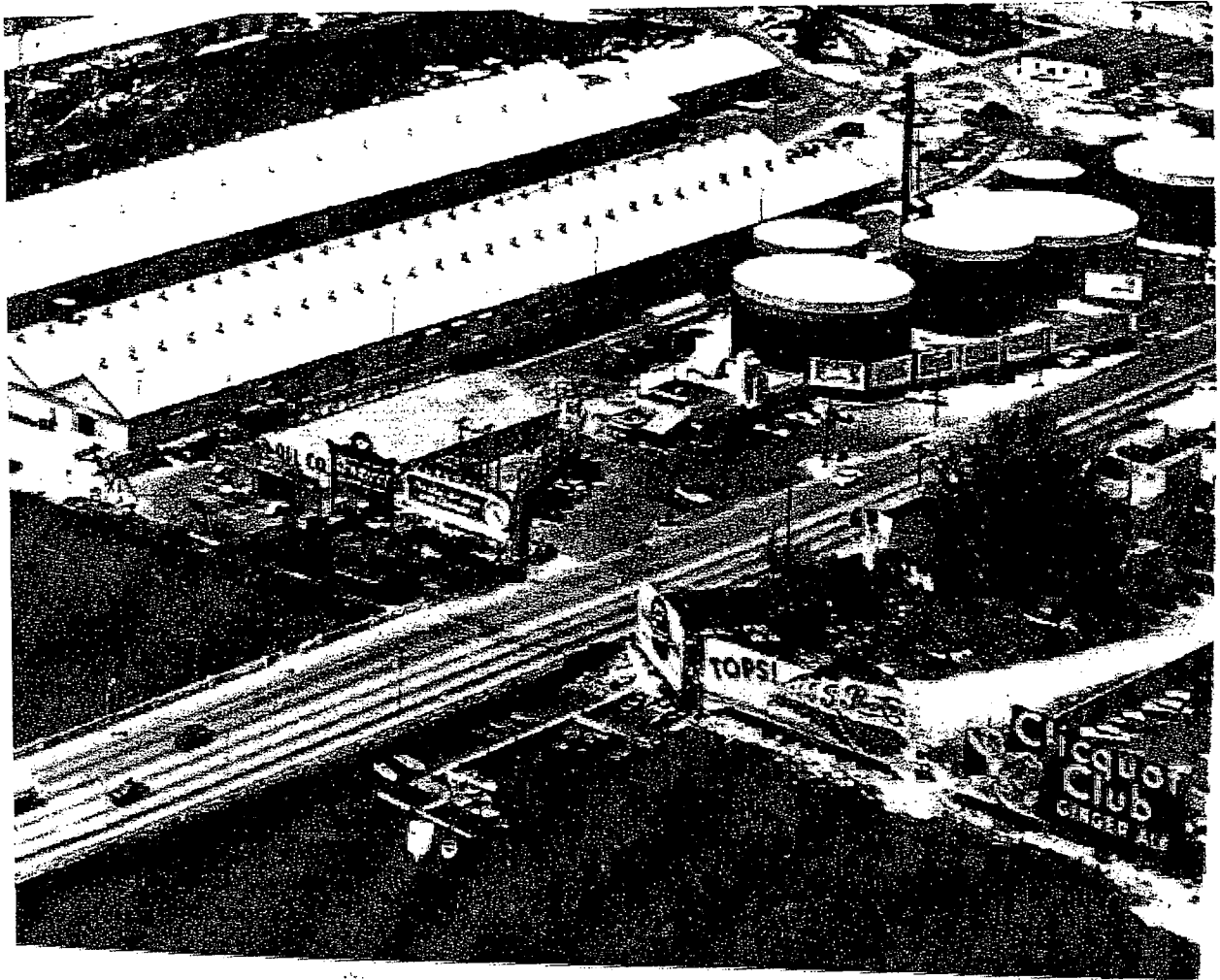
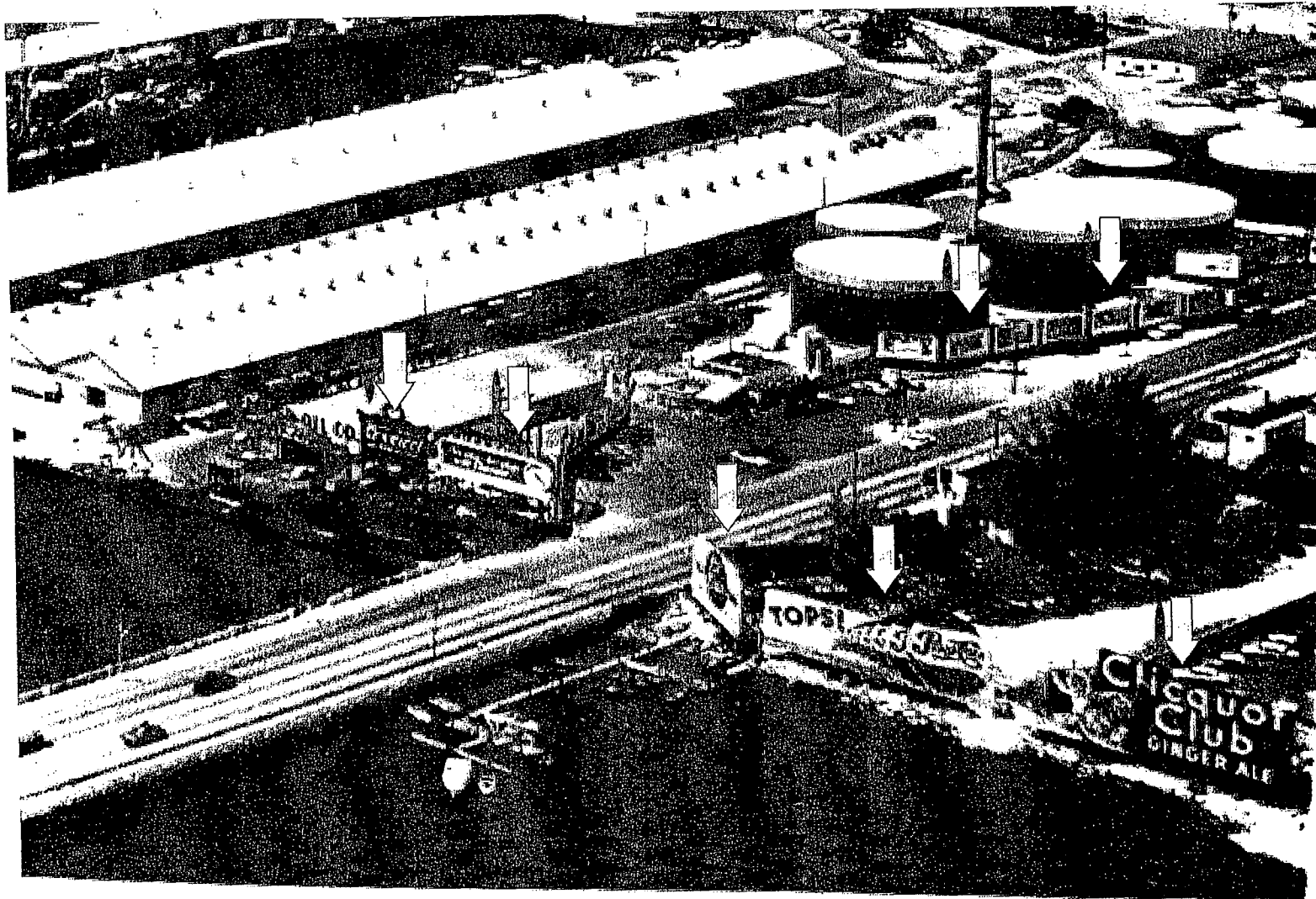


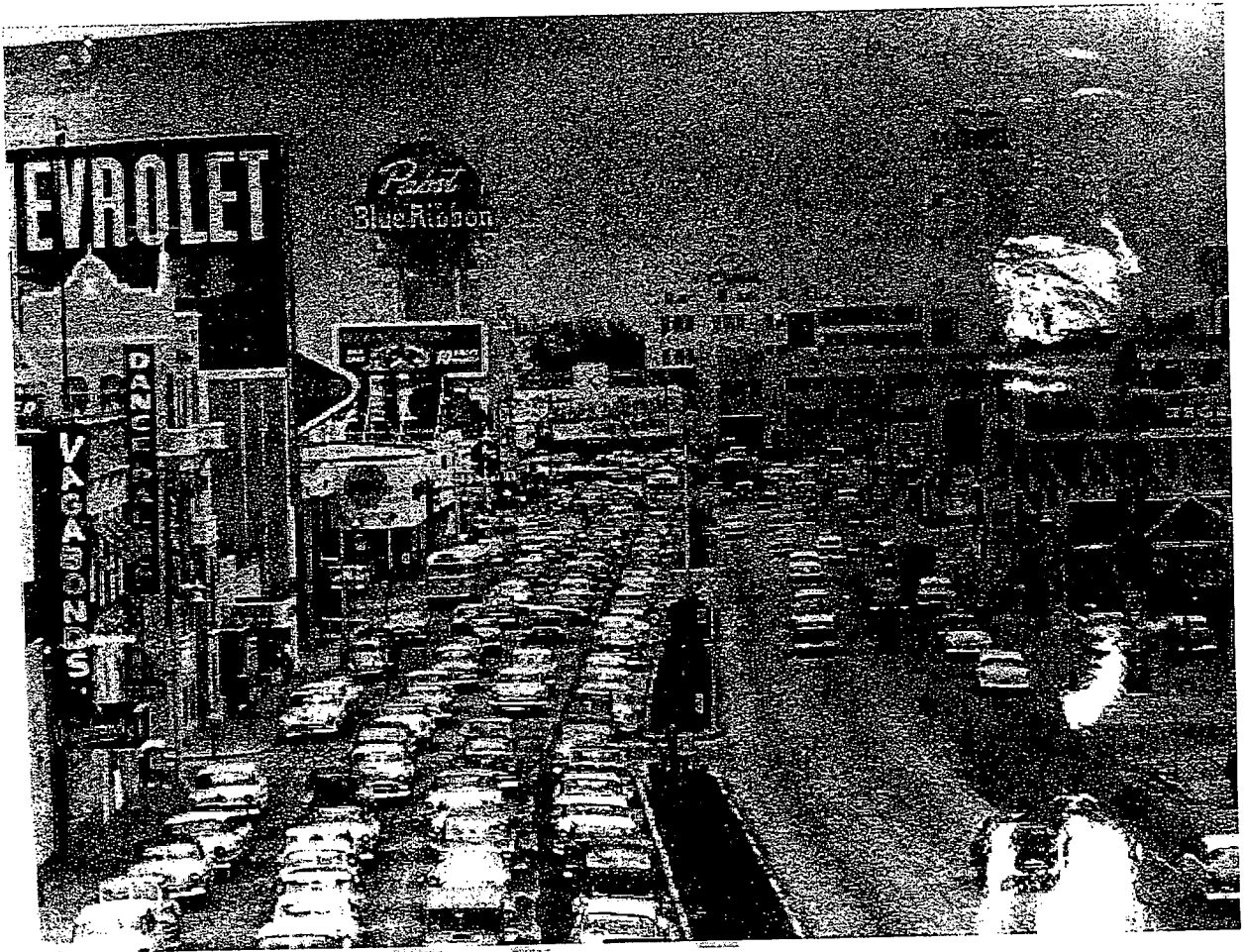
Exhibit D

Exhibit E



# Exhibit F

1955 - Approximately at 1300 Biscayne Blvd. facing South.



# Exhibit G

1962 - Downtown Miami Courthouse to the left and Industrial National Bank on Flagler Street

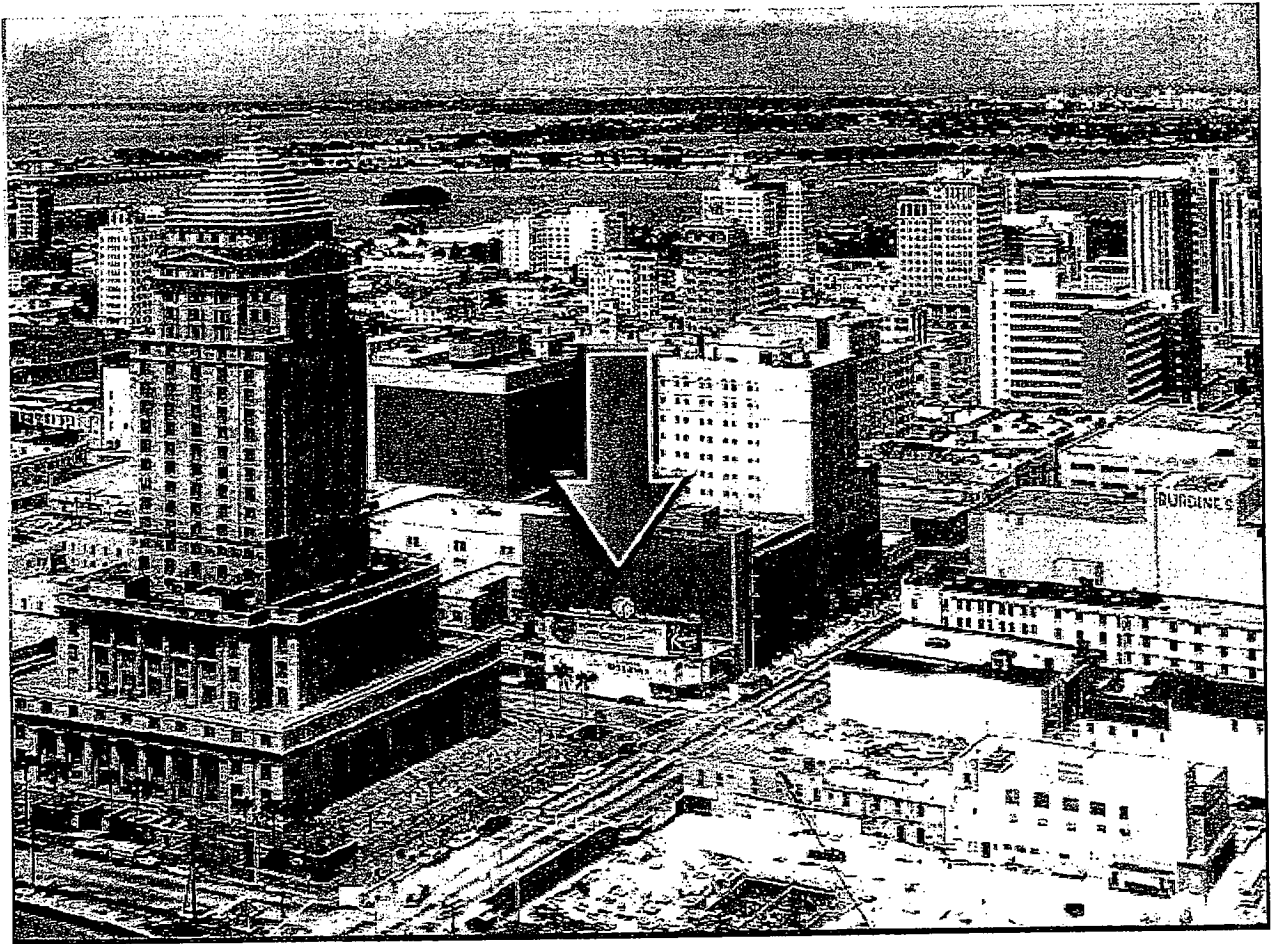
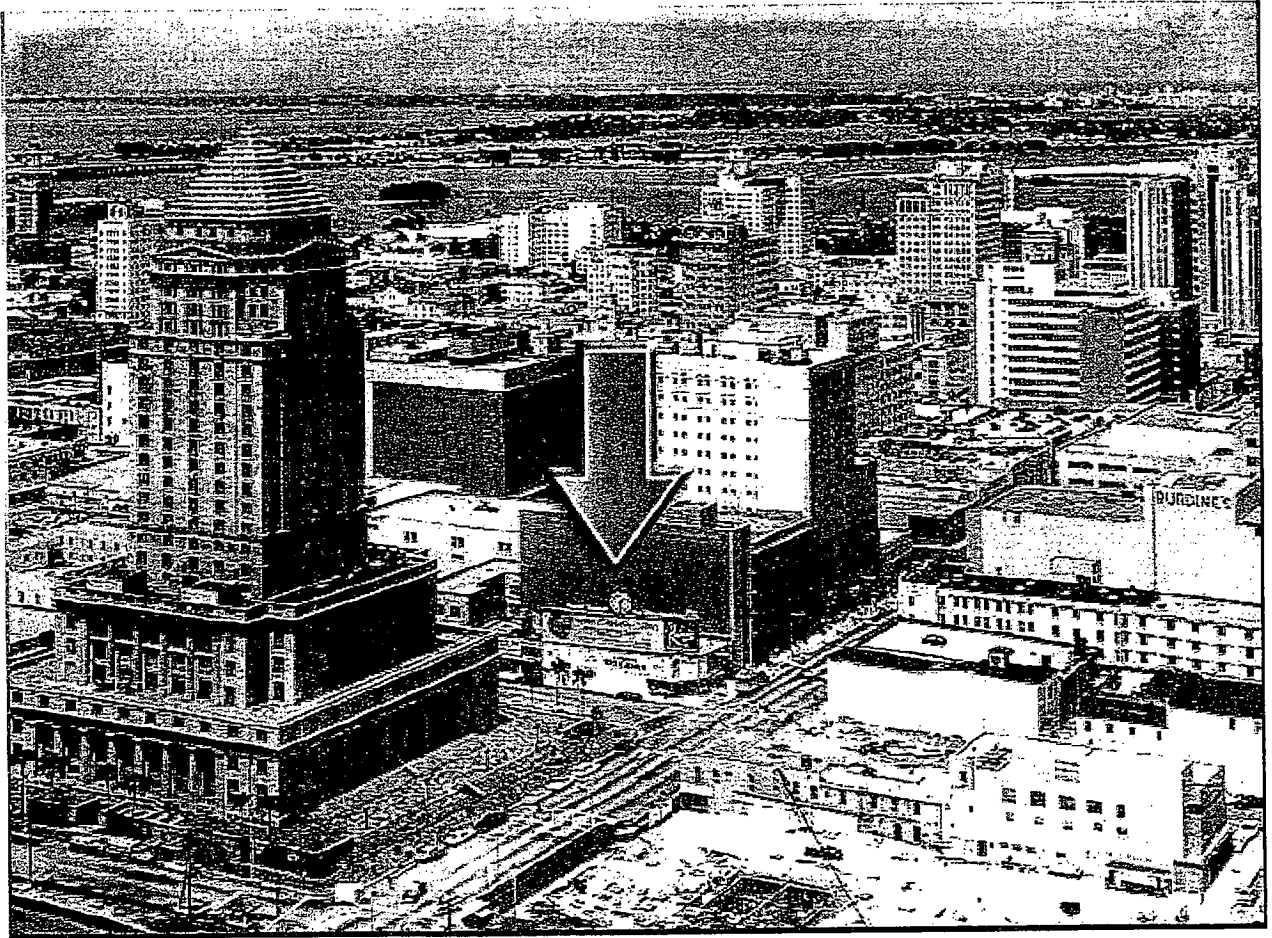


Exhibit H



# Exhibit I

1969 - Miami Waterfront along Biscayne Blvd. (US 1)

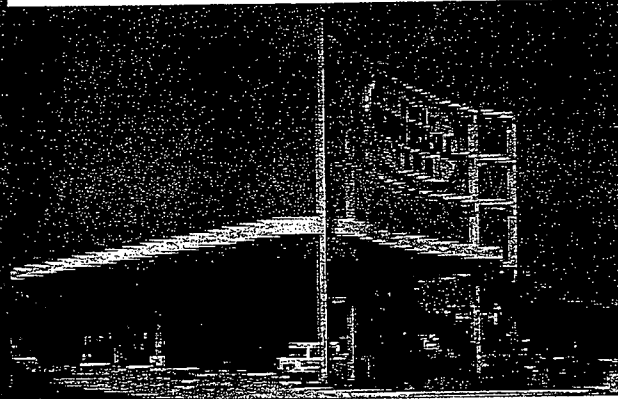




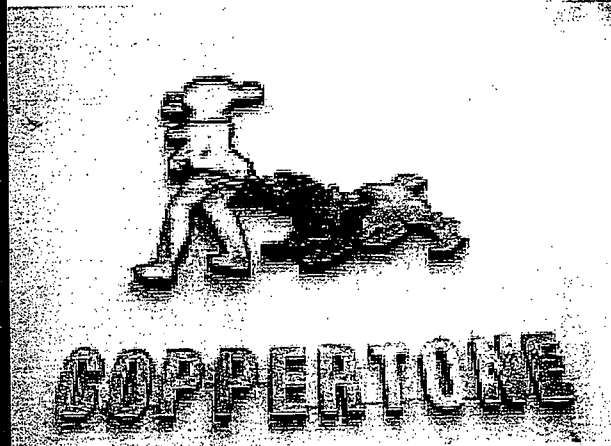
Exhibit J



The idea: Move her from downtown to a restored architectural gem on Biscayne Boulevard.



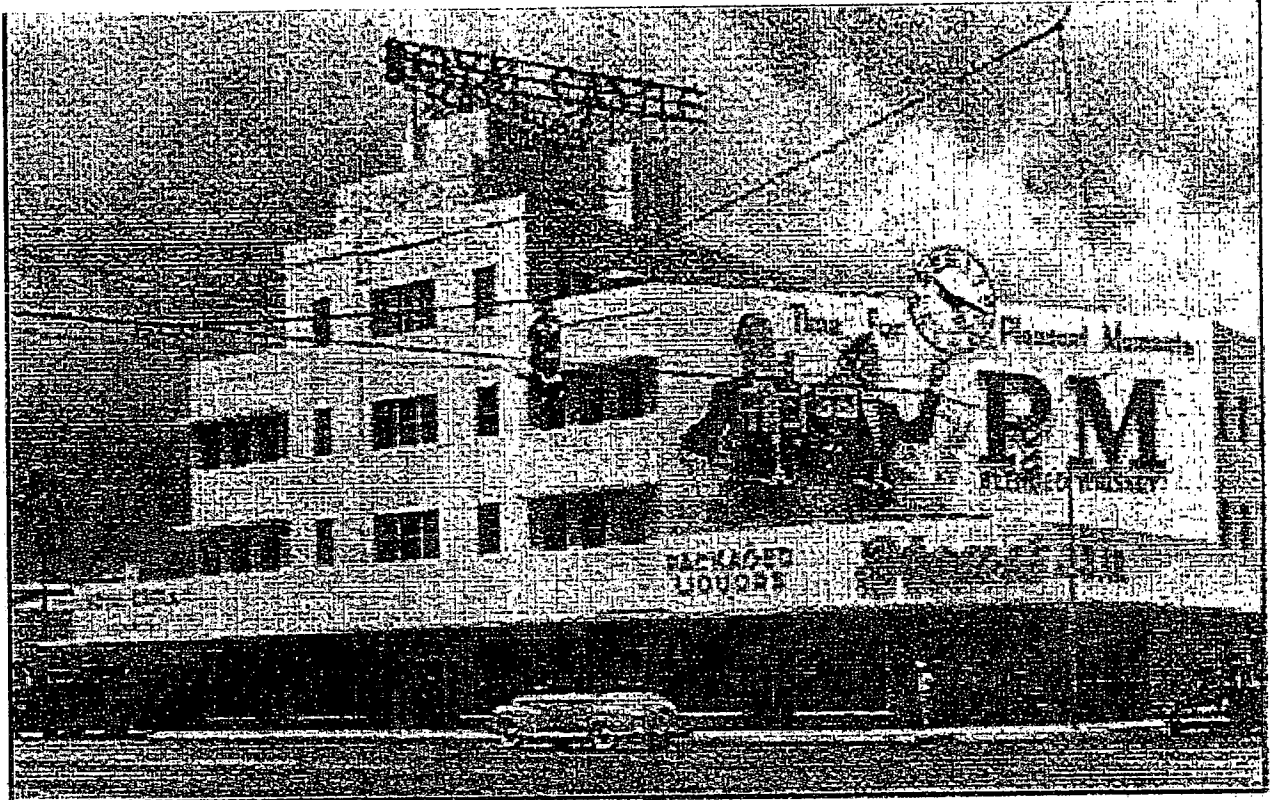
Robert Law Weed's 1954 MiMo classic is today's Andiamo Pizza.



The girl and dog are the worse for wear today in downtown Miami.

## Exhibit K

1950's - Newspaper article regarding Royal Castle on Biscayne Blvd. and Tenth Street.



No story of Miami can be complete without noting how much everybody loved Royal Castle! From the 15¢ hamburgers to the big mugs of birch beer and the honeybuns, from the eggs freshly made with a big piece of butter to the great hot coffee, it was everybody's favorite. With a change of ownership, the chain faded to one lone restaurant at Northwest Twenty-seventh Avenue and Seventy-ninth Street. Prior to new ownership moving the offices and commissary to Northwest Sixty-second Street, the chain was headquartered at Tenth Street and Biscayne Boulevard. The restaurant was ensconced at the southeast corner of the building.

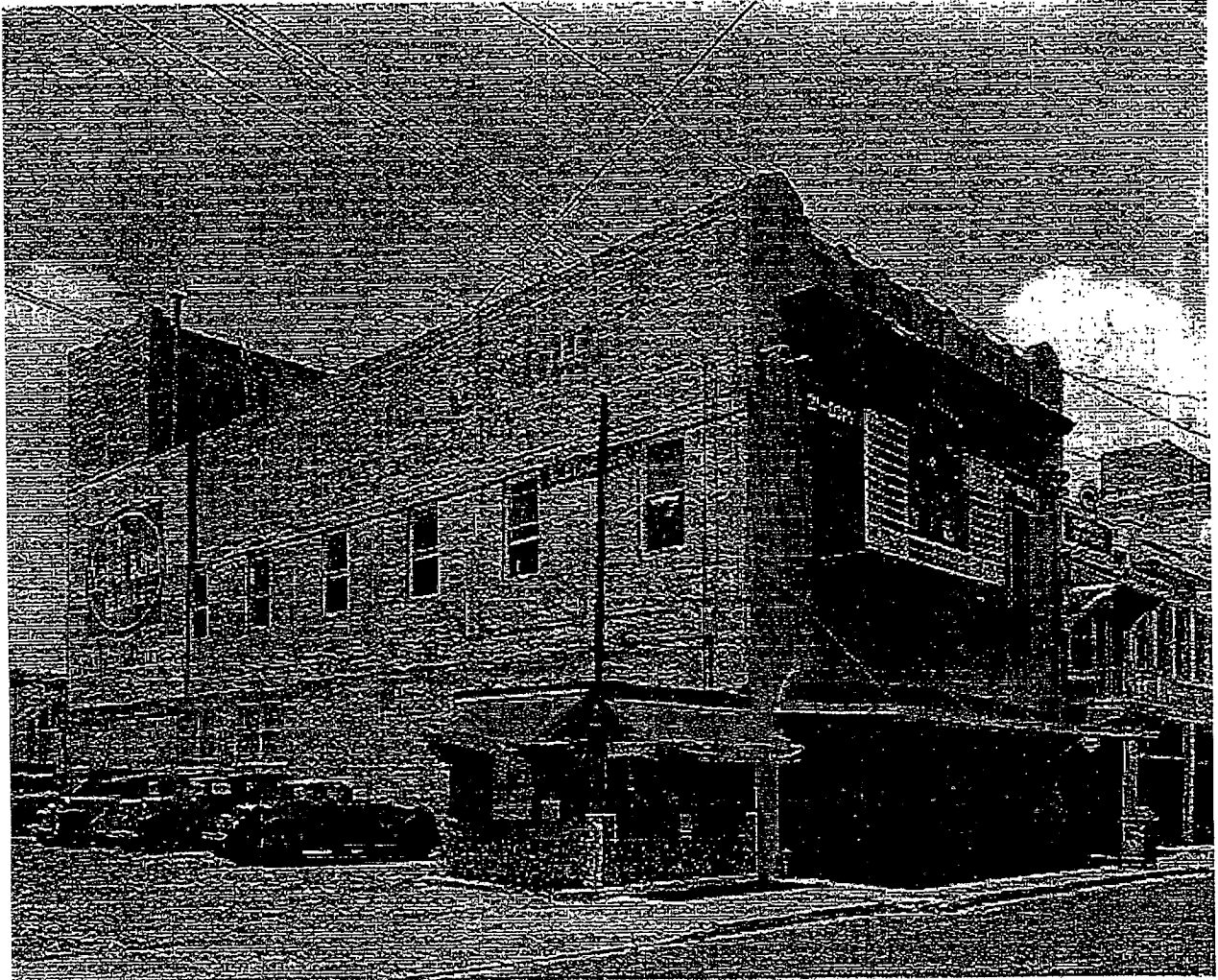
# Exhibit L

1940 - Single building with two murals located just off US 1.



## Exhibit M

1927 - The Miami Tribune newspaper building with a mural located on the same side of the building.



# Exhibit N

1946 - Franklin -Webster billboard for Miami-based Regal Beer painted by Burl Grey



# Exhibit O

1955 - National Airlines billboard in Miami advertising new DC-7 Star service to New York, Washington and Havana

