## Chapter 33B AREAS OF CRITICAL ENVIRONMENTAL CONCERN [[1]](#BK_222481A936DDB01A642C56EA3A4F16E2)

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[ARTICLE II. - EAST EVERGLADES](../level3/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV.docx)

FOOTNOTE(S):

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**Cross reference—** Development within coastal flood hazard districts, Ch. 11C; environmental protection, Ch. 24; environmentally endangered lands program, Ch. 24A; standards for acceptance of covenants not to use land for other than scenic outdoor recreational or park purposes, § 25B-11 et seq.; zoning, Ch. 33; Biscayne Bay management, Ch. 33D; Key Biscayne Beach preservation, Ch. 33F. [(Back)](#BK_28DC3B9A4C59CE4BAE24B3DD819F6A85)

### ARTICLE I. IN GENERAL

[Sec. 33B-1. Legislative intent, findings and purposes.](#BK_0491EA6ECB3FA78C969AD46958D38AF7)

[Sec. 33B-2. Authority of Board to designate areas of critical environmental concern.](#BK_20F873C6D9A17E966AA1B38FFBE61C0A)

[Sec. 33B-3. Adoption of land use regulations and procedures for areas of critical environmental concern.](#BK_36EFD78C8032D2FF4EFE25F07A170D26)

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[Secs. 33B-6—33B-10. Reserved.](#BK_2E8F89580B59BC0B8199E36E805478F5)

Sec. 33B-1. Legislative intent, findings and purposes.

(a) The health, safety, welfare, comfort and convenience of the present and future residents of Miami-Dade County are dependent upon the orderly development and minimal degradation of the natural ecosystems of certain lands in Miami-Dade County; and the health, safety, welfare, comfort and convenience of the present and future residents of Miami-Dade County require that the natural ecosystems in certain lands in Miami-Dade County remain functionally intact; and the maintenance of the present hydrology (both surface and subsurface) within certain lands in Miami-Dade County is vital to the health, safety and welfare of the present and future residents of Miami-Dade County; and the protection of the ecological form and functions of the Everglades National Park and its estuarine areas and adjacent wetlands is vital to the health, safety, welfare, comfort and convenience of the present and future residents of Miami-Dade County and is inextricably related to certain lands in Miami-Dade County; and land use regulations and performance standards, which are part of a land and water management system, are necessary in certain areas of Miami-Dade County to insure the orderly, well-planned development of those lands and to protect the public interests specified; and the Home Rule Charter for Metropolitan Miami-Dade County specifically authorizes the Board of County Commissioners to prepare and enforce comprehensive plans for the development of Miami-Dade County; to provide and regulate water supply and conservation programs; to establish, coordinate and enforce comprehensive plans for the development of Miami-Dade County; to provide and regulate water supply and conservation programs; to establish, coordinate and enforce zoning as is necessary for the protection of the public, and to exercise all powers and privileges granted to municipalities, counties and county offices by the Constitution and laws of the State, and all powers not prohibited by the Constitution or by the Charter, and to perform any other acts consistent with law which are required by the Charter or which are in the common interest of the people of the County; and this chapter is declared to be a proper and necessary exercise of the aforesaid powers.

(b) The statements aforesaid made are declared to be the legislative intent, findings and purposes of the Board of County Commissioners and are hereby adopted and made a part hereof.

(Ord. No. 75-49, § 1, 6-19-75)

Sec. 33B-2. Authority of Board to designate areas of critical environmental concern.

The Board of County Commissioners of Metropolitan Miami-Dade County, Florida, shall have the power to declare those lands within the unincorporated area of Metropolitan Miami-Dade County that have a significant impact on environmental and natural resources of Metropolitan Miami-Dade County, Florida, and which are inextricably related to the health, safety, welfare, comfort and convenience of the present and future inhabitants of, and visitors to, Metropolitan Miami-Dade County, to be areas of critical environmental concern. In designating areas to be of critical environmental concern, the Commission shall specify by ordinance the boundaries of the area; the reasons why the particular area is of critical concern to the County; the dangers that would result from uncontrolled or inadequate development of the area, and the advantages that would be achieved from the development of the area in a coordinated manner.

(Ord. No. 75-49, § 2, 6-19-75)

Sec. 33B-3. Adoption of land use regulations and procedures for areas of critical environmental concern.

The Board of County Commissioners of Metropolitan Miami-Dade County, Florida, shall adopt by ordinance those land use regulations and procedures for areas of critical environmental concern which are essential to assure the protection and preservation of the public health, safety, welfare, comfort and convenience of the present and future inhabitants and visitors to Metropolitan Miami-Dade County. Such regulations shall be supplemental to such zoning as may exist on the said lands and shall be reasonably necessary and not unduly burdensome to accomplish the purposes aforesaid. (Ord. No. 75-49, § 3, 6-19-75)

Sec. 33B-4. Adoption of administrative procedures.

The Board of County Commissioners shall adopt by ordinance such administrative procedures as may be necessary to measure the impact on the natural and human environment of requested changes in land use in areas of critical environmental concern and to take such other measures as are necessary for the protection of the public. (Ord. No. 75-49, § 4, 6-19-75)

Sec. 33B-5. Definitions.

(a) *Area of critical environmental concern.* An area where the environmental and natural resources of Metropolitan Miami-Dade County, Florida, are highly susceptible to degradation to the detriment of the public health, safety, welfare, comfort and convenience unless its alteration or development is in accordance with the purposes of this chapter.

(b) *Development* means the carrying out of any use permitted on land by applicable zoning regulations (i.e., [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of Metropolitan Miami-Dade County Code) or making any material change in the use or character of land, including, but not limited to, the placement of structures on land; the clearing of land or a change in the intensity of use of land. When appropriate to the context, development refers to the act of developing or the result of development.

(Ord. No. 75-49, § 5, 6-19-75)

Secs. 33B-6—33B-10. Reserved.

### ARTICLE II. EAST EVERGLADES

[DIVISION 1. - GENERALLY](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx)

[DIVISION 2. - OVERLAY ZONING REGULATIONS](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx)

[DIVISION 3. - SEVERABLE USE RIGHTS](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV3SEUSRI.docx)

[DIVISION 4. - WETLANDS DISCLOSURE](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI.docx)

#### DIVISION 1. GENERALLY [[2]](#BK_175730FC89E01E56C45315B8A74FF974)

[Sec. 33B-11. Adoption of declarations.](#BK_85469382722FF523DF1115968A8E6242)

[Sec. 33B-12. Designation of area.](#BK_9081B60E1E0DA95156192CD2A6F5D341)

[Sec. 33B-13. Description of the area](#BK_9D3E41507B79DAC7D17C4FD79A53327E)

[Sec. 33B-14. Definitions.](#BK_018DB3C3F34CF8C0C463ACDAA7AF511B)

[Sec. 33B-15. Management area.](#BK_5249011776199124D49FBFB9C502C610)

[Sec. 33B-16. Necessity for further implementation.](#BK_863E8581FCEE9E5D0CFA8E06E7108398)

[Secs. 33B-17—33B-20. Reserved.](#BK_09C7AF6118E2891965CD970B62B11A70)

Sec. 33B-11. Adoption of declarations.

The aforesaid declarations are hereby adopted as the legislative and intent of the Board of County Commissioners of Metropolitan Miami-Dade County, Florida, and are made a part hereof.

The Board of County Commissioners of Metropolitan Miami-Dade County, Florida, hereby declares and finds that the creation of the area of critical environmental concern is essential to assure the protection and maintenance of the public health, safety and welfare of the present and future inhabitants of, and visitors to, Metropolitan Miami-Dade County. It is the purpose of this designation to protect the public health, safety and welfare by assuring orderly development of the designated area and minimal degradation of those natural ecosystems described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR); by requiring that the functional integrity of natural ecosystems as described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR) is protected; by assuring the maintenance of the present surface and subsurface hydrology within those lands described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR); by providing for the protection of the ecological form and function of the Everglades National Park, its estuarine areas and adjacent wetlands, and to maintain the capability of the natural environment to sustain a proposed use in the long term. This approach will ensure the integrated use of the physical, natural and social sciences and arts in the planning decision process to minimize adverse impacts upon, and to maximize the benefits and resources of, the area.

(Ord. No. 81-1, § 1, 1-15-81)

Sec. 33B-12. Designation of area.

It is hereby declared that the land area described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR) is an area of significant environmental and natural resource value to Metropolitan Miami-Dade County, Florida, and is inextricably related to the health, safety and welfare of the present and future inhabitants of, and visitors to, Metropolitan Miami-Dade County and, as such constitutes an area of critical environmental concern in Metropolitan Miami-Dade County.

(Ord. No. 81-1, § 2, 1-15-81)

Sec. 33B-13. Description of the area

(a) *Boundaries of area.*

Begin at the southwest corner of [Section 18](../level2/PTIIICOOR_CH18IMSPRPDI.docx#PTIIICOOR_CH18IMSPRPDI), Township 59 South, Range 38 East, Miami-Dade County, Florida; thence run north along the west line of Township 59 South, Range 38 East, and the west line of Township 58 South, Range 38 East, to the southeast corner of Section 36, Township 57 South, Range 37 East; thence run west along the south line of said Section 36 to the southwest corner of said Section 36; thence run north along the west line of Sections 36, 25, and 24 of Township 57 South, Range 37 East, to the northwest corner of said [Section 24](../level2/PTIIICOOR_CH24ENPRBIBAENDEAQPACOARBIBAENENTRFUENENLAPR.docx#PTIIICOOR_CH24ENPRBIBAENDEAQPACOARBIBAENENTRFUENENLAPR); thence run west along the south line of Sections 14, 15, 16, 17 and 18 of Township 57 South, Range 37 East, to the southwest corner of said [Section 18](../level2/PTIIICOOR_CH18IMSPRPDI.docx#PTIIICOOR_CH18IMSPRPDI); thence run north along the west line of Township 57 South, Range 37 East, the west line of Township 56 South, Range 37 East, and the west line of Township 55 South, Range 37 East to the northwest corner of Section 6 of said Township 55 South, Range 37 East; thence run northeasterly along the west line of Hiatus Lot 6 lying between Township 55 South, Range 37 East and Township 54 South, Range 37 East, to the southwest corner of [Section 31](../level2/PTIIICOOR_CH31VEHI.docx#PTIIICOOR_CH31VEHI), Township 54 South, Range 37 East; thence run north along the west line of Township 54 South, Range 37 East, to the point of intersection with the center line of U.S. Highway No. 41 (Tamiami Trail) in Section 7, Township 54 South, Range 37 East; thence run easterly along the center line of U.S. Highway No. 41 (Tamiami Trail) to the point of intersection with an imaginary extension of the center line of Levee L-31-N in [Section 11](../level2/PTIIICOOR_CH11CO.docx#PTIIICOOR_CH11CO), Township 54 South, Range 38 East; thence run south on the center line of Levee L-31-N through Sections 11, 14, 23, 26 and 35 of Township 54 South, Range 38 East; thence deflect southwesterly along the center line of Levee L-31-N in Hiatus Lot 2 lying between Township 54 South, Range 38 East, and Township 55 South, Range 38 East; thence deflect southerly along the center line of Levee L-31-N through Sections 2, 11, 14, and 23 of Township 55 South, Range 38 East; thence deflect southwesterly along the center line of Levee L-31-N through Sections 26 and 34, Township 55 South, Range 38 East; thence deflect southerly along the center line of L-31-N through Section 4, Township 56 South, Range 38 East; thence deflect southwesterly along the center line of Levee L-31-N through Sections 9, 17, and 18, Township 56 South, Range 38 East; thence deflect southerly along the center line of Levee L-31-N through Sections 19, 30 and 31, Township 56 South, Range 38 East, and Sections 6 and 7 of Township 57 South, Range 38 East to a point in said Section 7 where Levee L-31-N meets Canal C-111; thence continue south along the center line of Canal C-111 through Sections 7, 18, 19, 30 and 31 of Township 57 South, Range 38 East and through Section 6, Township 58 South, Range 38 East to the southeast corner of said Section 6; thence continue south along the said center line of Canal C-111 and along the east lines of Sections 7 and 18, Township 58 South, Range 38 East, to a point of deflection of the center line of Canal C-111 on the east line of said [Section 18](../level2/PTIIICOOR_CH18IMSPRPDI.docx#PTIIICOOR_CH18IMSPRPDI); thence deflect southeasterly along the center line of Canal C-111 through Sections 17, 20, 21, and 22, Township 58 South, Range 38 East to a point of intersection with the center line of Canal C-111E in said [Section 22](../level2/PTIIICOOR_CH22WATH.docx#PTIIICOOR_CH22WATH); thence run north on the center line of Canal C-111E to the midpoint of [Section 22](../level2/PTIIICOOR_CH22WATH.docx#PTIIICOOR_CH22WATH), Township 58 South, Range 38 East; thence run east across the midlines of Sections 22, 23, and 24 of Township 58 South, Range 38 East, and the midline of [Section 19](../level2/PTIIICOOR_CH19REPROWMEAC.docx#PTIIICOOR_CH19REPROWMEAC), Township 58 South, Range 39 East to a point of intersection with the center line of U.S. Highway No. 1 in said [Section 19](../level2/PTIIICOOR_CH19REPROWMEAC.docx#PTIIICOOR_CH19REPROWMEAC); thence run southeasterly along the center line of U.S. Highway No. 1 to a point of intersection with the south line of [Section 17](../level2/PTIIICOOR_CH17HO.docx#PTIIICOOR_CH17HO), Township 59 South, Range 39 East; thence run west along the south line of Sections 17 and 18, Township 59 South, Range 39 East and the south line of Sections 13, 14, 15, 16, 17, and 18, Township 59 South, Range 38 East, to the southwest corner of said [Section 18](../level2/PTIIICOOR_CH18IMSPRPDI.docx#PTIIICOOR_CH18IMSPRPDI), the same being the point of beginning, all the above lying and being in Miami-Dade County, Florida.

(b) *Environmental description and characteristics.*

(1) *General.* This area of critical environmental concern is located to the west of the urbanized part of the County contiguous to the Everglades National Park and encompasses approximately two hundred forty-two (242) square miles. Urbanized areas approach to within four (4) miles of its eastern boundary. Significant roads within the area are the Ingraham Highway (SR-27), Grossman Drive (SW 237 Avenue), U.S. Highway No. 1, the Context Road, Richmond Drive (SW 168 Street), Howard Drive (SW 136 Street), and Tamiami Trail (U.S. Highway No. 41).

(2) *Geology.* The geology of the area is characterized by a highly transmissive water-bearing unconfined limestone formation known as the Biscayne Aquifer. The Biscayne Aquifer extends from the Broward-Palm Beach County boundary southward through all of Miami-Dade County. It is the sole source of potable water in Miami-Dade and Broward Counties and one of the most permeable aquifers in the world. The U.S. Environmental Protection Agency has recognized the importance of the Biscayne Aquifer by designating it as a sole source aquifer under the provisions of the Safe Drinking Water Act of 1974. The aquifer is exposed at the surface in must of the area or is covered by a thin mantle of soil and/or plant material. Within the aquifer, limestones make up approximately eighty (80) percent of the volume of the formation. Water levels within the rock formation annually rise to the surface in response to summer and fall precipitation, inundating vast portions of the designated area.

(3) *Groundwater.* Groundwater flow in this area is generally in a southeasterly and southerly direction. Infiltrating rain in the western portion of the aquifer is the source of waters that flow into the deeper, eastern portions of the aquifer. As subterranean flows proceed eastward, shallower groundwater strata are replenished by direct percolation of precipitation and by infiltration from canals.

(4) *Physiography.* The designated critical area is comprised of four (4) physiographic areas. From north to south they are: (a) The Shark River Slough, (b) the Rocky Glades, (c) Taylor Slough, and (d) the Southeast Saline Everglades.

a. The Shark River Slough, also known as the Upper Shark River Basin, is a shallow surface water basin with an elevation of approximately six (6) feet above mean sea level. The slough has a northeasterly to southwesterly orientation and surface water flows in a southwesterly direction into the Everglades National Park during the wet season. During the rainy season, the water rises to a level of more than two (2) feet above much of the land surface. This part of the critical area contains some of the most significant areas of true "sawgrass everglades" that are found in South Florida. The overall slope of the land is very slight (two-tenths (0.2) feet per mile). The occurrence of three (3) basic vegetative communities within this region is indicative of very small differences in elevation of the terrain and average period of water inundation. The three (3) community types are (1) hammock forest/marsh thicket; (2) the sawgrass-rush-maidencane marsh; and (3) the rush-sawgrass-maidencane marsh. The forest and thicket communities occur as "islands" on discrete areas where the ground is a few inches higher than the surrounding marshes. The sawgrass-dominated marsh community is distributed over peat deposits, but at slightly lower elevation than the tree and shrub community. The wet prairie dominated by rush is found at slightly lower elevation than the sawgrass and usually corresponds with shallow soil deposits and a longer period of inundation.

Soils in the Shark River subarea are primarily accumulations of peat and muck which grade into rockland and outcrops of limestone in the south and southeast portions of the area. The peat soils are primarily the result of decaying sawgrass and other indigenous vegetation. Much of the Shark River Slough is covered by a periphyton or algal mat which is a complex biotic community consisting primarily of the blue-green and green algae, diatoms, desmids and other microscopic plants and animals. This periphyton community is understood to be the basis of the Everglades food web. The periphyton mat is dependent upon the maintenance of the natural hydroperiod for its continuation. In addition to its role as the primary producer in the Everglades food chain, the periphyton mat precipitates calcium carbonate which forms marl soil deposits. These marl deposits sometimes act to "cap" the rock surface in areas of the gladeland floor, thereby allowing the ponding of water which in turn aids in the formation of peat and muck soils.

Wildlife species that nest or feed in the Shark River Slough include the wood ibis, snowy and American egrets, Everglades kite, Everglades mink, round-tailed muskrat, white-tailed deer and American alligator. This area is especially valuable as a feeding area for a large population of wading birds during the early part of the dry season in South Florida.

b. The Rocky Glades is the area between the Shark River Slough to the north and west, and Taylor Slough to the south. The Rocky Glades is not a discrete drainage basin, rather it is an area of "indeterminate drainage." Land elevations in the Rocky Glades range from eight and five-tenths (8.5) feet to five and five-tenths (5.5) feet above mean sea level (MSL). The land is characterized by rough, rocky outcroppings of limestone which has been eroded into pinnacle rock. Soils are primarily of the Rockland series and are principally comprised of eroded limestone with pockets of unconsolidated soil material. The natural vegetation in the area is a complex of muhly-sawgrass-rush and muhly-beardgrass prairies interspersed with small tree islands. Wildlife common to the prairies in Taylor Slough and Everglades National Park inhabit this area.

The Rocky Glades area plays a significant role in the recharge of groundwater and as a water storage area. Precipitation collects in depressions in the eroded limestone and percolates downward into the water table where it adds to the fresh water. The Rocky Glades is an important recharge area to groundwater flows toward public and private well fields in the vicinity of Homestead and Florida City.

c. The portion of Taylor Slough within the East Everglades is the headwaters basin for a popular aquatic environment in Everglades National Park. The elevation in this subarea ranges from seven (7) to five and five-tenths (5.5) feet above MSL. The soils in Taylor Slough include perrine marls and rockland types. The predominant plant communities are the Muhly-sawgrass-rush, muhly-beardgrass and muhly prairies. Numerous small tree islands are also found in the headwaters of Taylor Slough. The wildlife in the Taylor Slough include some of the bird populations which are seem in Shark River Slough as well as those which are common in the prairies of the Rocky Glades. A large portion of Taylor Slough has been designated by the Secretary of the Interior as critical habitat for the Cape Sable sparrow, an endangered species.

Taylor Slough is one (1) of the three (3) principal drainage basins found in Everglades National Park. Because the headwaters of Taylor Slough are located in the East Everglades, the environmental characteristics of this subarea are critically important to downstream areas.

d. The southeast Saline Everglades is the fourth distinct physiographic province in the designated area. Historically, fresh water flowed during the rainy season as a vast sheet from the vicinity of Florida City southward to the coastal estuaries. Although this flow pattern has been influenced by water management works in recent years, the Southeast Saline Everglades remains critically linked to the functioning of the brackish water estuaries of Florida Bay—the nurseries for infant shrimp and fish and other marine animals. Basic to the immense productivity of South Florida's estuaries is the inflow of fresh water from this subarea which moderates estuarine salinities and transports detrital material and other food sources for the juvenile marine organisms. Salinity is one of the most important factors affecting biological productivity in estuaries. Estuarine salinity is greatly influenced by upstream water levels. Maintenance of a broad brackish zone and a gradual salinity gradient in the coastal estuaries is a critical function of the sheet flow from the Southeast Saline Everglades. This salinity regime must be maintained if the high productivity of commercial fisheries is to be maintained. The soils of this area are marls and peats, often in overlying layers. Portions of the Southeast Saline Everglades have been designated by the Secretary of the Interior as critical habitat for the American crocodile. Other portions have been designated as critical habitat for the Cape Sable sparrow. An active eagle nest is also established in this subarea.

(5) *Topography.* Land elevations in the area of critical environmental concern range from eight and one-half (8.5) feet above mean sea level (MSL) in the eastern part of the Rocky Glades subarea to five (5) feet above MSL in the Shark River Slough to less than one (1) foot above MSL in the Southeast Saline Everglades south and southwest of Canal 111. The groundwater table frequently rises to, or above, the land surface during the wet season. Water depths of three (3) feet are not uncommon in parts of the Shark River Slough, while in the Rocky Glades some areas remain dry except during water level peaks. Although surface flow in each of the physiographic areas is affected by distinct topographic characteristics, the maintenance of flow characteristics in each subarea is dependent upon maintenance of water levels in the other subareas.

(c) *Reasons for critical area designation.* There are a number of significant reasons for designating the East Everglades as an area of critical environmental concern:

(1) *Recharge of Biscayne Aquifer.* The area forms a part of the recharge zone of the Biscayne Aquifer and is directly upgradient from wellfields which provide irrigation and drinking water for Miami-Dade and Monroe Counties. High groundwater levels in the area maintain a groundwater gradient which provides for a subterranean flow of water, uncontaminated by development runoff and/or seepage, toward the major wellfields in Miami-Dade County and toward the Everglades National Park. In addition, the high groundwater levels in the area provide an essential freshwater head which prevents the intrusion of salt water into the base of the aquifer.

(2) *Surface water supply to Everglades National Park.* Surface water within the area of critical environmental concern flows directly into Everglades National Park. The complex Everglades ecosystem is dependent upon a seasonal supply of high quality water flowing overland across the park and into Florida Bay. The continued supply of high quality fresh water to the intertidal nursery zones of Florida Bay and the Ten Thousand Islands is essential to the maintenance of paneid shrimp, oyster, menhaden and other fisheries of the Florida coast, the Gulf of Mexico and the Atlantic Ocean. In addition, overland freshwater flows are literally the lifeblood of the Everglades National Park, a resource of national and international importance. Furthermore, waters within Everglades National Park have been designated by the United States Environmental Protection Agency as national resource waters. Federal regulation prohibits any degradation of water quality of national resource waters.

(3) *Flood storage capacity.* The area of critical environmental concern has historically functioned as an area that retains large quantities of surface water during highwater periods and releases water gradually by both surface flow and groundwater recharge. Although the East Everglades has been influenced by water management projects for other areas in recent times, the floodwater retention capacity is relatively unimpaired.

(4) *Water quality maintenance.* The existing natural system within the area maintains a high quality water system that conveys essential nutrients downstream. This supply of high quality water and nutrients assures a diverse and dynamic micro and macro biota which are essential to the sustenance of the life cycles in the Everglades through the changing seasons. The ecosystem also provides a clean ground water supply for recharging the Biscayne Aquifer. Introduction of excess nutrients and other chemicals through development can quickly overload the natural assimilative capacity of the system.

(5) *Protection of economic vitality of Miami-Dade County.* The large public expense that occurs when remote wetlands are converted to rural residential development is well known. In recognition of this condition, the Miami-Dade County Comprehensive Development Master Plan specified that public services should not be provided to the East Everglades at least through the year 2000. The public cost of development in the East Everglades would be much greater than in other remote areas due to the unresolvable conflict between protecting regional water supplies and providing flood protection to the area. The public health and nuisance problems that accompany residential development of floodplains and wetlands will create conditions that will require public investment in an attempt to provide flood control. In addition to the cost of the flood control projects, the threat to regional water supplies will jeopardize the future economic growth of Miami-Dade County in areas where such growth has been provided with flood protection and public services. Furthermore, the loss of existing and future agricultural land in the East Everglades will jeopardize the economic diversity and vitality of Miami-Dade County.

(6) *Vegetation, wildlife, and other natural features.* The vegetation, wildlife and geologic qualities of the East Everglades make this an area of very high value to Miami-Dade County and the South Florida Region. Nearly fifty (50) types of vegetation communities have been identified, several of which contain unique or rare plant species. Many of the plant species are on State and Federal lists as endangered or threatened. Approximately three hundred fifty (350) animal species are known to occur in the area. A total of thirty (30) wildlife species on the endangered/threatened list occur in the East Everglades, including several of the nation's rarest and most unique animals. Along with Everglades National Park, the East Everglades serves as an important nesting and feeding area for migrating bird species of international significance. Portions of the East Everglades have been designated by the United States Secretary of the Interior as critical habitat for two (2) endangered species, the Cape Sable sparrow and the American crocodile. In addition to the important vegetation and wildlife values, the most significant pinnacle rock formations known to exist in the South Florida region are found in the East Everglades.

(d) *Dangers resulting from uncontrolled development of the area.*

(1) *Pollution of groundwater supply.* Uncontrolled development within the area poses a serious threat to the quality of water recharged to the Biscayne Aquifer. The placement of septic tanks or sewers at rural residential densities in floodplains and wetlands is expected to create a serious health hazard for present and future residents of Miami-Dade County. Similarly, runoff from developed areas, including streets, is a serious threat to the quality of groundwater. Chemicals and other products such as pesticides, fungicides and fertilizers used in agricultural operations in areas noted as suitable for farming use in the East Everglades pose similar hazards to the surface water supply in the Biscayne Aquifer.

(2) *Pollution of surface water to Everglades National Park.* Septic tanks, sewers, suburban runoff and agri-chemical applications outside those areas noted as suitable for farming use in the East Everglades pose similar hazards to the surface water supply of Everglades National Park. Once in the surface water, excess nutrient loads, disease pathogens, heavy metals, PCB's, pesticides and other pollutants generated by development act to reduce diversity and productivity, short-circuiting the natural cycles of life at the base of the food chain. The potential impact on the nursery grounds for Gulf of Mexico and Atlantic fisheries, numerous bird species, and other Everglades fauna is significant.

(3) *Reduction of surface water flow to Everglades National Park.* Equally critical to the health of the Park wildlife and fisheries recourses are historic seasonal fluctuations of water levels. The reduction of ground and surface water levels that accompanies residential and inappropriate agricultural development would result in a stress on the Park's existing life systems and begin a process of alteration of the Park biota, generally favoring undesirable exotic species.

(4) *Reduction of groundwater recharge to Biscayne Aquifer.* The increase in surface water runoff from impervious cover and reduction in surface and groundwater levels by flood control works that historically have accompanied development of wetlands would pose a serious threat to the groundwater recharge of the Biscayne Aquifer if uncontrolled development is allowed to occur in the area. A reduction in groundwater levels within the area would reduce the water available for drinking and irrigation and would reduce the freshwater head that prevents saltwater encroachment.

(5) *Reduction of flood storage capacity.* The creation of compacted roads, parking lots, roofs and ancillary impervious and semi-impervious works, along with any attempts to remove ground or surface water to protect residences or crops would act to impair the historic function of the area as a floodwater retention basin. Removal of water from the East Everglades would cause increases in downstream flood levels. Impairment of surface flow would increase flood stages upstream of the restriction, thereby affecting existing use of upstream lands.

(6) *Danger to development from flooding.* Only a very small portion of the East Everglades has flood protection. Residential development in floodplains and wetlands creates public health and nuisance problems. The danger from storm surge in the southern portion of the area is an additional threat to the safety of future residents.

(7) *Danger to development from fire.* Periodic fires are a natural and unpreventable part of the East Everglades environment. The area is inaccessible for most fire equipment, and the drainage and exaggerated dry conditions that would accompany development would make fire a serious threat to life and property in the area.

(8) *Loss of vegetation, pinnacle rock, wildlife.* Uncontrolled development would irretrievably destroy the pinnacle rock outcrops present in parts of the area. Clearing of vegetation would result in a decrease in native wildlife habitat and has historically facilitated the spread of noxious exotic vegetation species. The loss of habitat would result in further decline in wading bird populations and threaten the survival of two (2) endangered wildlife species.

(9) *Loss of agricultural land.* The management plan for the East Everglades identified important existing and future agricultural lands within the study area. Uncontrolled development of these lands will result in the loss of these valuable lands for agriculture, thereby jeopardizing the economic diversity and vitality of the Miami-Dade County economy.

(e) *Advantages to be achieved by development in a coordinated manner.* Careful development in a coordinated manner will protect the historic function of the area as an essential source of high quality water to drinking and irrigation wells in South Miami-Dade County and to the Everglades National Park. The area will continue to act as a floodwater retention basin, as a water filter, and as a freshwater head against salt water intrusion into the Biscayne Aquifer. Hazard to human health and safety from coastal flood surge and seasonal flooding can be mitigated. Critical habitats for rare and endangered wildlife species can be protected, as well as other important habitats for native wildlife and plants.

Management of land uses within the area can prevent the imposition of direct and indirect economic, social and environmental cost on private individuals and the public at large by land developers. Property owners in the area will be allowed a reasonable use of their property, making public acquisition unnecessary. However, the use of transferable development rights will be evaluated and, if found to be appropriate, will be applied to all portions of the area as an alternative economic use so that owners may benefit from ownership and leave their land in its natural state.

(f) *Environmental findings.* The Board of County Commissioners hereby declares that description and characteristics set forth in subsections (b), (c), (d), and (e) of this section constitute environmental findings and further declares and finds that:

(1) Protection of the Biscayne Aquifer, its related surface waters and ecosystems, is vital to the continued health, safety and welfare of the present and future residents of Miami-Dade County, Florida.

(2) The continuing service to the people of Miami-Dade County of the Biscayne Aquifer, its related surface waters and ecosystems, is threatened by uncoordinated development of the area described in this section by:

a. Decreasing available aquifer recharge area and water quantity;

b. Degrading the quality of aquifer recharge water;

c. Decreasing groundwater levels;

d. Decreasing natural water retention capability;

e. Decreasing groundwater supply, especially during drought;

f. Adversely altering surface and subsurface water flows (i.e., quantity, quality and periodicity) to Everglades National Park;

g. Adversely affecting the contribution of fresh water to adjoining estuarine systems, thereby diminishing their productivity; and

h. Destruction of vegetation, thereby destroying wildlife habitat.

(3) The regulation of land use in a coordinated manner within the area of critical environmental concern as described in this section, will minimize the dangers to human health, safety and welfare and to the functioning of the Biscayne Aquifer, its related surface waters and ecosystems, by:

a. Providing protection against alterations of the natural drainage systems;

b. Providing protection against coverage of natural water retention and recharge areas with excessive impermeable surfaces;

c. Providing protection against substantial alteration of the form and function of the natural ecosystem;

d. Providing protection against deterioration of water quality, both surface and ground;

e. Providing protection for the continuation of slow, natural overland flow of surface waters into Everglades National Park and the biotic and estuarine communities dependent on such flows;

f. Providing protection for the biological filtering capabilities of the wetland areas; and

g. Providing criteria for the method of elevation of structures above the level of seasonal, one hundred-year and storm surge flood levels.

(Ord. No. 81-1, § 1, 1-15-81)

Sec. 33B-14. Definitions.

For the purpose of this article, the following terms shall have the following meanings. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

(a) *Area (or critical area)* means the area of critical environmental concern as described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR)

(b) *Area of critical environmental concern* means an area where the environment and natural resources are highly susceptible to degradation to the detriment of the public health, safety and welfare unless its alteration or development is in accordance with the purposes of this chapter.

(c) *Development* means the carrying out of any use permitted on land by applicable zoning regulations (i.e., [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Metropolitan Miami-Dade County Code) or making any material change in the use or character of land, including, but not limited to, the placement of structures on land; the clearing of land or a change in the intensity of use of land. Development shall include the ancillary activities such as road building and sewer construction that occur along with or as a result of any proposed land use. When appropriate to the context, development refers to the act of developing or the result of development.

(d) *Ecosystems* means the complex of a community of organisms and its physical environment.

(e) *Flooding* denotes a condition in which water is at or above a point which is one (1) foot below the average elevation of a specific land area.

(f) *Groundwater* means water beneath the surface of the earth, but above the base of the Biscayne Aquifer, whether or not flowing through known or definite channels.

(g) *Hydroperiod* means that portion of the annual hydrological cycle during which water is at or on the soil surface. In estuaries, the hydroperiod is the annual period during which surface runoff from the land measurably dilutes seawater.

(h) *Impound* means to create or cause to be created any lake, reservoir, pond or other containment of surface waters occupying a bed or depression in the earth's surface and having a discernible shoreline.

(i) *Land* means earth, water and air above, below or on the surface.

(j) *Natural flow regime* means the velocity, volume and direction of the surface or ground water flow occurring at any given point in the current hydroperiod for any given portion of the area.

(k) *Natural vegetation* means vegetation indigenous to a site.

(l) *Impermeable or impervious surface* means site area covered by nonporous structural materials such as pavement, roofing, decking or structure foundations or supports.

(m) *Periodicity* means the characteristic frequency and duration of overland flow of surface water resulting from a given meteorologic or hydrologic event.

(n) *Person* means any and all persons, including, but not limited to, an individual, firm, association, organization, partnership, business trust, trust, corporation or company.

(o) *Surface runoff* means overland flow of waters.

(p) *Surface waters* means any water upon the surface of the earth, whether contained in bounds created naturally or artificially, or diffused. Water from natural springs shall be classified as surface water when it exists from the spring onto the earth's surface. Natural flow of surface water shall mean the unaltered movement or drainage of water upon the surface of the earth, whether standing or flowing. It is not essential that the flowing be uniform or uninterrupted, and the flowing, or existence of water on the surface of the land, may be seasonable or periodic.

(q) *Water quality* means the physical, chemical and biological characteristics of water together with the physical, chemical and biological characteristics of water that affect the propagation of fish, wildlife and aquatic plants and animals.

(r) *Water quantity* means the amount of water present at any location as indicated by its surface elevation, depth, velocity and direction of flow.

(s) *Works* means any artificial or natural barrier raised to obstruct, divert, impound or interfere or which does obstruct, divert, interfere or impound either continuously, periodically or seasonally, any of the surface waters in Metropolitan Miami-Dade County which shall include but not be limited to ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the surface waters of Metropolitan Miami-Dade County, but shall not include walls.

(t) *Wetlands* means any swamp, marsh, bog, or other land area that is partially or periodically inundated with water and characterized by indigenous biota adapted to and dependent upon partial or periodic inundation.

(Ord. No. 81-1, § 4, 1-15-81)

Sec. 33B-15. Management area.

Based on the environmental conditions and management purposes in Sections [33B-11](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-11ADDE) and [33B-12](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-12DEAR), respectively, of this article, three (3) management areas are hereby established for the East Everglades. As illustrated on the accompanying map, these areas are as follows:

(a) *Management Area 1: Modified Environment.* This management area includes land along the eastern boundary of the study area which has been previously altered by human activity.

(b) *Management Area 2: Permanent Wetlands.* This management area is defined as all land within the East Everglades that is flooded for at least nine (9) months of a normal water year. This condition is determined by stage-duration relationships calculated using available hydrologic data. This area includes most of Northeast Shark River Slough and the Southeast Saline Everglades.

(c) *Management Area 3: Seasonal Wetlands.* Management Area 3 is defined as that area lying between Management Areas 1 and 2. It is flooded for less than nine (9) months of a normal water year. Based on hydrologic conditions, the area is further divided into Subareas 3A, 3B and 3C.

(1) Subarea 3A is defined as meeting at least one (1) of the following criteria:

a. Has vegetation characterized by tree island and wet prairie communities;

b. Is flooded from three (3) to nine (9) months during an average water year; and

c. Is flooded less than three (3) months during an average water year but is not contiguous with Management Area 1.

(2) Subarea 3B is defined as all land in the East Everglades which meets both of the following criteria:

a. Is flooded less than three (3) months during an average year; and

b. Is contiguous with Management Area 1.

(Ord. No. 81-1, § 5, 1-15-81)

Sec. 33B-16. Necessity for further implementation.

The County Manager is hereby instructed to prepare and submit to the County Commission within one hundred twenty (120) days of the adoption of this division, an ordinance or ordinances which will address the land use regulations and procedures which are reasonably necessary to accomplish the goals and objectives of the "East Everglades Resources Planning Project." The provisions of this section are directory only and shall not be deemed to void ordinances enacted subsequent to the time prescribed herein.

(Ord. No. 81-1, § 6, 1-15-81)

Secs. 33B-17—33B-20. Reserved.

FOOTNOTE(S):

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**Editor's note—** Upon the advice of the County, the editor has designated as Art II, §§ 33B-11—33B-16 the provisions of Ord. No. 81-1, §§ 1—6, enacted Jan. 15, 1981. The declarations mentioned in § 33B-11 were the preamble to said ordinance and have not been set out herein, nor has the map, mentioned in § 33B-15, been reproduced. [(Back)](#BK_71EAEDA17152FED48ACCDD6483B3DFBE)

#### DIVISION 2. OVERLAY ZONING REGULATIONS [[3]](#BK_9A12E38F8C9A64CC3A18EF4CF014B838)

[Sec. 33B-21. Title.](#BK_CCA643628DB99779FD23280E506B2EB4)

[Sec. 33B-22. Purpose.](#BK_8696F408FBA90F53153926B0AAF12423)

[Sec. 33B-23. Definitions.](#BK_A33CC90D9A511D32DE4F2A4C907E367C)

[Sec. 33B-24. Applicability of division to development; disclaimer statement.](#BK_6449970D81D03B2A235F68B359DDBB41)

[Sec. 33B-25. Authorized uses.](#BK_FA309DC1873A08A2BAAD3EE255A5D7BF)

[Sec. 33B-26. Environmental performance standards.](#BK_F2BA7801851C4D53182C5DE3254E0ED3)

[Sec. 33B-27. Conditional uses—Application process.](#BK_F11BCAB9630E543EBCD4B66CBC03A163)

[Sec. 33B-28. Same—General standards.](#BK_FB4F545E9DF5DE0FF288235992F4C051)

[Sec. 33B-29. Vested rights.](#BK_6A9B6040EF4F8F05B7AB56F3517941D0)

[Sec. 33B-30. Management areas.](#BK_28C6412EA8860AA5626EC02712C8FBD4)

[Sec. 33B-31. Variances.](#BK_20AD562F368E432A7869C6CC504C7E13)

[Secs. 33B-32—33B-40. Reserved.](#BK_D76CC06F1CB4094C6F3ACC88889A3C0A)

Sec. 33B-21. Title.

This division shall be known as the "East Everglades Zoning Overlay Ordinance."

(Ord. No. 81-121, § 1, 10-27-81)

Sec. 33B-22. Purpose.

In order to protect and preserve the public and private resources of the East Everglades and to achieve the goals and objectives of the East Everglades Resources Planning Project, it is necessary and appropriate to create a system of comprehensive land management and development regulations for the East Everglades Area of Critical Environmental Concern. This division is adopted in order to protect the East Everglades resources and to limit growth and development in the area to that development which is compatible with the long term integrity of the public and private economic and environmental values of the East Everglades. This division is in furtherance of the goals and objectives of Ordinance No. 81-1 [Division 1 of Article II of this chapter].

(Ord. No. 81-121, § 2, 10-27-81)

Sec. 33B-23. Definitions.

(a) *Agricultural support housing* means a single residential or housekeeping unit for the employees of an agricultural use.

(b) *Agricultural use* means horticulture and floriculture, horticultural and floricultural uses and purposes, including row crop farms, groves, nurseries, horticultural farming, truck farming and barns, sheds, or other nonhabitable structures which are used for the storage of farm machinery, fertilizer, seed or other items or equipment which are ancillary to an on-site agricultural use. The propagation, sale, maintenance, or transport of noxious exotic species as defined hereunder is prohibited. The maintenance and raising of animals for commercial purposes is not included.

(c) *Conservation* means any activity which protects or enhances the vitality of a parcel's native flora and fauna.

(d) *Critical habitat* means those land areas which are described as critical habitat by the U.S. Department of Interior.

(e) *Cumulative impact* means the total impact, over time, of a proposed development and a proliferation of the same or similar developments on the environment throughout the management area.

(f) *Developer* means any person undertaking development.

(g) *Development* means the carrying out of any use permitted on land by applicable zoning and environmental regulations (e.g., Chapters 9, 24 and 33 of Metropolitan Miami-Dade County Code) or making any material change in the use or character of land, including, but not limited to, excavation, filling, rock plowing or other alteration of the topographic, geologic or hydrologic character of land in preparation or as a part of the commencement of new agricultural activities, the placement of structures on land, the clearing of land or a change in the intensity of use of land. Development shall include ancillary activities such as road building and sewer construction that occur along with or as a result of any proposed land use. When appropriate to the context, development refers to the act of developing or the result of development.

(h) *Established agricultural operation* means an agricultural use in existence on January 14, 1981.

(i) *Land* means the earth, water and air above, below or on the surface.

(j) *Management Area 1* means that land that is shown as Management Area 1 on the attached map entitled "Management Areas of the East Everglades" which is filed with the Clerk of the County Commission. An official map of the East Everglades Management Area will be maintained by the Miami-Dade County Department of Planning and Zoning.

(k) *Management Area 2* means that land that is shown as Management Area 2 on the attached map entitled "Management Areas of the East Everglades" which is filed with the Clerk of the County Commission. An official map of the East Everglades Management Area will be maintained by the Miami-Dade County Department of Planning and Zoning.

The south half of [Section 19](../level2/PTIIICOOR_CH19REPROWMEAC.docx#PTIIICOOR_CH19REPROWMEAC), Township 58 South, Range 39 East lying westerly of U.S. Highway No. 1, less canal and road rights-of-way, containing three hundred twenty (320) acres, more or less, Miami-Dade County, Florida, shall be excluded from Management Area 2.

(l) *Management Area 3* means that land that is shown as Management Area 3 on the attached map entitled "Management Areas of the East Everglades" which is filed with the Clerk of the County Commission. An official map of the East Everglades Management Area will be maintained by the Miami-Dade County Department of Planning and Zoning.

(m) *Noxious exotic plants* includes but is not limited to any of the following plant species: Cajeput (*Melaleuca quinquenervia*); Australian pine (*Casuarina* spp.); Brazilian pepper (*Schinus terebinthifolius*); castor bean (*Ricinus communis*); colubrina *Colubrina asiatica*); aerial potato (*Discorea bulbifera*); and day-blooming jasmine (*Cestrum diurnum*).

(n) *Owner* means the person with legal and/or equitable title to real property.

(o) *Passive recreation* means those recreational opportunities afforded by such resources as the native flora, fauna, and aesthetic appeal of a natural setting and requiring minimum development to utilize and enjoy such resources, including but not limited to nature study, primitive camping, hiking, canoeing, picnicking, hunting and fishing.

(p) *Parcel of land* means any quantity of land capable of being described with such definiteness that its locations and boundaries may be established and which is designated by its owner or developer as land to be used as a unit.

(q) *Person* means any and all persons, including but not limited to an individual, firm, association, organization, partnership, business trust, trust, corporation or company.

(r) *Road* means any cleared, plowed, bulldozed, filled, graded, excavated or paved area capable of being used for the passage of vehicles, persons or animals. Roads shall not mean trails used or capable of being used solely by off-road vehicles such as airboats, swamp buggies and all-terrain vehicles.

(s) *Secondary/induced impact* means those impacts which may result from a development that is generated as an ancillary or subsequent use to the proposed development, including but not limited to the disposal of runoff from a primary use.

(Ord. No. 81-121, § 3, 10-27-81; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 23, 9-3-98)

Sec. 33B-24. Applicability of division to development; disclaimer statement.

(a) All development in the East Everglades Area of Critical Environmental Concern shall comply with each and every provision of this division.

(b) The requirements of this division shall be in addition to each and every other requirement of the rules, regulations and ordinances of Metropolitan Miami-Dade County, and in the case of conflict, the provisions of this division shall control.

(c) No permit for use or development of any land within the East Everglades Area of Critical Environmental Concern shall be issued by any agent of Miami-Dade County government which permit does not contain the following statement:

The subject parcel is located in the East Everglades Area of Critical Environmental Concern and is subject to seasonal flooding. Neither Miami-Dade County nor the South Florida Water Management District plans to construct flood protection works which would benefit the subject parcel. Moreover, neither Miami-Dade County nor the Water Management District will allow the owner (or permittee) to use public canal systems to provide drainage that is not now available to the subject parcel. In addition, it is against county policy either to provide new roads or to maintain and/or improve privately built roads in this area.

I hereby certify that I have read and understand the foregoing statement.

|  |  |
| --- | --- |
| \_\_\_\_\_ | \_\_\_\_\_ |
| Signature | Date |

The foregoing statement is to be included in all permits as a courtesy to owners, and failure to include such statement in any permit shall not be construed as a waiver of any other provision of this division.

(Ord. No. 81-121, § 4, 10-27-81)

Sec. 33B-25. Authorized uses.

(A) *Management Area 1:*

(1) *Permitted uses:*

(a) Agricultural use, and

(b) Agricultural support housing at a density of no greater than one (1) unit per forty (4) acres, or

(c) Single-family detached dwelling units at a density of no greater than one (1) unit per forty (40) acres.

(2) *Conditional uses:*

(a) Single-family detached dwelling units at a density of no greater than one (1) unit per five (5) acres in that portion of Management Area 1 which had an established residential character as of January 14, 1981, provided that positive drainage flood control facilities are available to protect the area from a one-in-ten-year flood event. This area is defined as all of Sections 14, 21, 22, 23, 27, 28; the south one-half of [Section 11](../level2/PTIIICOOR_CH11CO.docx#PTIIICOOR_CH11CO) and the south one-half of the north one-half of [Section 11](../level2/PTIIICOOR_CH11CO.docx#PTIIICOOR_CH11CO); the east one-half of [Section 15](../level2/PTIIICOOR_CH15SOWAMA.docx#PTIIICOOR_CH15SOWAMA); the east one-half of [Section 16](../level2/PTIIICOOR_CH16GEOBBO.docx#PTIIICOOR_CH16GEOBBO); all land in [Section 26](../level2/PTIIICOOR_CH26PAREDERURE.docx#PTIIICOOR_CH26PAREDERURE) which lies northerly and westerly of Levee L-31-N; the east one-half of the east one-half of [Section 29](../level2/PTIIICOOR_CH29TA.docx#PTIIICOOR_CH29TA); all within Township 55 South and Range 38 East.

(b) Residential dwelling units at a density of no greater than one (1) dwelling unit per twenty (20) acres, provided that:

1. The dwelling unit is ancillary to an established agricultural operation involving less than forty (40) acres, and

2. Occupancy of the dwelling is limited to the owner, operator or employees of the established agricultural operation, and

3. The parcel was not in common ownership with any adjacent parcel of land on or after January 14, 1981.

(B) *Management Area 2:*

(1) *Permitted uses:*

(a) Residential dwellings at a density of no greater than one (1) unit per forty (40) acres.

(b) Passive recreation and conservation and traditional ORV and airboat use.

(2) *Conditional uses:*

(a) One (1) residential dwelling unit on parcels of less than forty (40) acres provided that:

1. The parcel proposed for development was entitled to a density of at least one (1) dwelling unit as of January 14, 1981, under the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Metropolitan Miami-Dade County Code; and

2. The parcel proposed for development has at least two hundred (200) feet of frontage on U.S. Highway 41 (Tamiami Trail) or on U.S. Highway 1; and

3. The parcel proposed for development is at least five (5) acres in size and was not in common ownership with any adjacent parcel of land on or after January 14, 1981; and

4. The only filling allowed on the parcel proposed for development is that amount necessary for an individual on-site waste water disposal system and the fill pad for such a system is placed adjacent to the highway; and

5. When not located on the waste water disposal fill pad, the residential unit and driveway access shall be elevated to the appropriate flood criteria by the use of pilings.

(C) *Management Area 3:*

(1) *Permitted uses:*

(a) Residential dwellings at a density no greater than one (1) unit per forty (40) acres.

(b) Passive recreation and conservation and traditional ORV and airboat use.

(2) *Conditional uses:*

(a) Agricultural use, provided that:

1. The parcel of land proposed for development is located in Management Area 3B or 3C,

2. The parcel proposed for agricultural use in Management Area 3C is adjacent to an established agricultural use or separated from an adjacent agricultural use by a parcel of land that cannot be farmed due to natural conditions such as a slough or tree island or by the refusal of the adjacent property owner to allow his/her land to be farmed,

3. When the parcel proposed for development is within Management Area 3C, there are no alternative locations for the establishment of an agricultural use in Management Areas 1 and 3B,

4. The applicant can demonstrate that the parcel is hydrologically capable of supporting farming, and all required federal permits are obtained.

(Ord. No. 81-121, § 5, 10-27-81)

Sec. 33B-26. Environmental performance standards.

All development in the East Everglades Area of Critical Environmental Concern shall comply with the standards listed below. The cumulative and/or secondary/induced impacts of the proposed development shall be considered in determining whether the development meets the environmental performance standards of this section.

(a) *Fill:*

(1) The placement of fill including the construction of roadways shall not impede the rate or volume of surface water flow or create significant backwater conditions.

(2) The area of fill shall not exceed the following limitations:

a. In Management Areas 1 and 3B—One-half acre; and

b. In Management Areas 2A, 2B, 3A and 3C—The minimum area necessary to install an on-site waste water treatment system, not to exceed one-half acre.

(b) *Excavation:* No excavation shall be carried out in the East Everglades Area of Critical Environmental Concern, except:

(1) Discontinuous shallow ditching for agricultural purposes shall be permitted; however, it shall not serve as a continuous conduit for transporting water to the extent that it has a significant adverse effect on the natural hydrologic regimen of the immediate vicinity of the parcel proposed for development.

(2) Excavation of shallow lakes for recreation and/or fill for uses permitted under this division shall be evaluated on a case-by-case basis, and all such lakes shall meet all applicable Miami-Dade County criteria for lakes.

(c) *Roads:*

(1) No roads shall be permitted in Management Areas 2A and 2B.

(2) Where permitted, roads in the East Everglades Area of Critical Environmental Concern must be designed so that they will not interrupt or divert natural sheet flow. Elevated roads must be sufficiently bridged and culverted to allow the passage of high water flows without causing significant backwater conditions. The Miami-Dade County Public Works Manual on road design, as amended from time to time, is incorporated herein by reference. No roads shall be permitted in Management Areas 2A and 2B.

(d) *Clearing of native vegetation:* Tree islands characterized by native vegetation shall be preserved in all management areas, including agricultural areas. Residential and hunting camp uses on tree islands shall be permitted only if the tree island canopy is preserved intact and the proposed use will not have a significant adverse impact on the wildlife habitat value of the island.

(e) *Landscaping:* Species to be used in ornamental planting shall not include noxious exotic plants. All ornamental planting shall be subject to the approval of the Miami-Dade County Department of Environmental Resources Management.

(f) *Solid waste disposal:* No solid waste not degradable by approved on-site systems shall be disposed of or deposited in the area of critical environmental concern.

(g) *Agriculture:*

(1) Agricultural activities shall be managed so that exotic plants will not become established, maintained or propagated. All practicable methods of control, subject to County approval, which do not significantly degrade the environment shall be employed. Affirmative steps shall be taken to eliminate the noxious exotic species defined herein.

(2) Any agricultural practice which reduces infiltration rate from that of natural (or present) conditions shall be compensated for by an on-site retention technique (e.g., ditch, depression). The design of such facilities shall ensure that collected water will percolate into the groundwater system and that no net change in infiltration rate or volume occurs.

(3) After completing rock plowing and regrading activity, elevated planting beds shall not inhibit surface water sheet flow.

(4) Farm roads built above grade must meet Public Works Manual criteria with regard to the passage of flood flows and sheet flow.

(5) Construction of structures ancillary to agricultural use such as equipment storage sheds should be located and designed so that they minimize the impact on surface water flow.

(Ord. No. 81-121, § 6, 10-27-81)

Sec. 33B-27. Conditional uses—Application process.

(a) *Application contents.* An application for a permit for development approval for a conditional use authorized by [Section 33B-25](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-25AUUS) of this division shall be submitted to the Department of Environmental Resources Management in accordance with the provisions of this section and shall be accompanied by a nonrefundable fee in an amount to be established from time to time by the Board of County Commissioners of Metropolitan Miami-Dade County. The application shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Department of Environmental Resources Management and the Department of Planning and Zoning and shall contain at least the following information:

(1) Name and address of applicant;

(2) Legal description and lot number of the property which is the subject of the application;

(3) Statement of ownership;

(4) Size of the subject property;

(5) A written statement describing in general terms the proposed development;

(6) A written statement setting forth how the proposed development meets each standard specified in [Section 33B-28](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-28SAENST) for the conditional use;

(7) A site plan at a scale of not more than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed development and use, and including the following:

a. Location of the property by lot number, block number, and street address, if any.

b. The boundary lines of the property, the dimensions of the property, existing subdivision, and easements, roadways and public rights-of-way on or adjacent to the property.

c. The location and dimensions of all structures designed to maintain the natural flow of surface waters.

d. The location, height and use of all proposed and existing buildings and structures and filled areas.

e. The approximate location and dimensions of all proposed lots.

f. All existing and proposed surface and subsurface drainage facilities, waste treatment facilities, septic tank and potable well location.

g. Scale of drawing and north arrow.

h. Such other information or documentation as may be necessary or appropriate to a full and proper consideration and disposition of the development application.

(8) An aerial photograph(s) taken within one (1) year of the application at the scale of three hundred (300) feet to the inch of the subject parcel and all adjacent property within two thousand six hundred forty (2,640) feet or, if an aerial photo is not available, a vicinity sketch at the scale of three hundred (300) feet equals one (1) inch showing all existing development within two thousand six hundred forty (2,640) feet of any boundary of the subject parcel.

(9) An environmental description of the parcel proposed for development including:

a. A topographical survey signed by a registered engineer or licensed land surveyor,

b. A general description of the existing vegetation as well as all other natural features including sloughs, tree islands, geological formation, and soil type.

(b) *Review of application.*

(1) Within fifteen (15) days after an application for conditional use approval is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.

(2) Within sixty (60) days after receipt of a complete application, the Directors of the Planning and Zoning and the Environmental Resources Management Departments shall review the application for conditional use approval and shall decide whether the proposed conditional use permit should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the standards for conditional use approval set forth in [Section 33B-28](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-28SAENST). The Department of Environmental Resources Management shall give notice of projects accepted for conditional use approval by publication in a newspaper of general circulation in Miami-Dade County and posting a notice on property adjacent to the proposed project. If an appeal is filed with the Department of Environmental Resources Management within ten (10) days of said publication, a public hearing before the Board of County Commissioners shall be held for the project. If no appeal is requested, a conditional use permit shall be issued by the Department of Environmental Resources Management subject to the provisions herein.

(c) *Appeal to the Board of County Commissioners.*

(1) An applicant for conditional use approval under the provisions of this section may appeal the decision of the Directors of the Planning and Zoning and the Environmental Resources Management Departments to the Board of County Commissioners of Metropolitan Miami-Dade County.

(2) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.

(3) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the appeal on the agenda of the next regular meeting of the Board of County Commissioners.

(d) *Action by the Board of County Commissioners.* The Board of County Commissioners of Metropolitan Miami-Dade County shall review the application for which an appeal has been properly filed, the decision of the Directors of the Departments of Planning and Zoning and Environmental Resources Management and any additional information which may be submitted. Following a full evidentiary hearing, the Commissioners may affirm, reverse or modify the decision of the Directors of the Departments of Environmental Resources Management and Planning and Zoning. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the standards for conditional use approval set forth in [Section 33B-28](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-28SAENST). An aggrieved party may appeal the decision of the Board to the Circuit Court with the applicable Florida Rules of Appellate Procedure.

(Ord. No. 81-121, § 7, 10-27-81; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 23, 9-3-98)

Sec. 33B-28. Same—General standards.

A conditional use permit may be granted only if the applicant demonstrates that:

(a) The conditional use is consistent with the purposes, goals, objectives and standards of the East Everglades Management Plan;

(b) The design of the proposed development minimizes adverse effects, including visual impacts of the proposed use on adjacent properties;

(c) The proposed use will not have singular or cumulative adverse effect on the value of adjacent property;

(d) The proposed use, singly or cumulatively, will not unduly burden essential public facilities and services including roadways, parking spaces, police and fire protection, drainage systems, refuse disposal, water and sewers, and schools;

(e) The proposed use, singly or cumulatively, will not have any of the following irreversible effects on the ecological integrity of the East Everglades:

(1) Harmful obstruction or undesirable alteration of the natural flow of water within the area of work.

(2) Harmful or increased erosion, or adverse environmental impact resulting from changes in water quality or quantity.

(3) Adverse impact upon wetland flora and fauna within adjacent parcels.

(4) Adverse impact upon wetland flora and fauna within those portions of the subject property not proposed for development under the application.

(5) Material injury to adjoining land.

(Ord. No. 81-121, § 8, 10-27-81)

Sec. 33B-29. Vested rights.

(a) Notwithstanding any other provision of this division, any landowner who claims a vested right to develop his property at a density greater than permitted under this division may submit an application for a determination of vested rights to the Department of Planning and Zoning during the effective period of this division.

(b) Any person who claims a vested right shall file an application for a determination of vested rights with the Department of Planning and Zoning, and shall attach a sworn affidavit setting forth the facts upon which the applicant bases his claim for vested rights. In addition to any other submission required by the Department of Planning and Zoning, the applicant shall include copies of any contracts, letters and other documents upon which a claim of vested rights is based. The mere existence of zoning prior to the effective date of this division shall not vest rights. Grandfathered rights which preceded this division shall be extinguished.

(c) The Department of Planning and Zoning shall review the application and determine whether the applicant has demonstrated:

(1) An act of development approval by an agency of Metropolitan Miami-Dade County,

(2) Upon which the developer has in good faith relied to his detriment,

(3) Such that it would be highly inequitable to deny the landowner the right to complete the previously approved development.

(d) Effect of vested rights determination. A determination that a landowner is entitled to a vested right to develop at a density greater than permitted under this division does not except the development from compliance with the standards set forth in [Section 33B-26](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-26ENPEST) of this division.

(Ord. No. 81-121, § 9, 10-27-81; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 23, 9-3-98)

Sec. 33B-30. Management areas.

(A) *Criteria:*

(1) *Management Area 1:* Management Area 1 is defined as that land in the East Everglades area of Miami-Dade County which is adjacent to Levee L-31-N and Canal C-111 and has been directly and permanently altered by human activity as of January 14, 1981. Management Area 1 includes Sections 11, 14, 15, 21, 22, 23, 27, 28; the east one-half of [Section 16](../level2/PTIIICOOR_CH16GEOBBO.docx#PTIIICOOR_CH16GEOBBO); all land in [Section 26](../level2/PTIIICOOR_CH26PAREDERURE.docx#PTIIICOOR_CH26PAREDERURE) which lies northerly and westerly of Levee L-31-N; the east one-half of the northeast one-quarter (¼) and the east one-half of the southeast one-quarter of [Section 29](../level2/PTIIICOOR_CH29TA.docx#PTIIICOOR_CH29TA); all within Township 55 South and Range 38 East; and all land adjacent to Levee L-31-N or Canal C-111, and south of Southwest 168th Street which has been directly and permanently altered by human activity as of January 14, 1981. An official map of Management Area 1 will be maintained by the Miami-Dade County Department of Planning and Zoning.

(2) *Management Area 2:* Management Area 2 is defined as that land within the East Everglades area of Miami-Dade County which is flooded (i.e., water level within one (1) foot of the land surface) for at least nine (9) months of the year in a year with average rainfall. (The boundary is determined by comparing the duration and elevation of water levels to the elevation of the land using the most complete water records available.) An official map of Management Area 2 will be maintained by the Miami-Dade County Department of Planning and Zoning.

(3) *Management Area 3:* Management Area 3 is defined as that land within the East Everglades area of Miami-Dade County described below as Management Areas 3A, 3B and 3C;

Management Area 3A is all land in the East Everglades which meets at least one (1) of the following three (3) criteria:

(a) Has vegetation characterized by tree island and/or wet prairie communities; that is, the community mosaics characterized by (in order of abundance) sawgrass glades, spike rush-beak rush, and maidencane flats; by spike rush-beak rush, sawgrass glades and maidencane flats; and by the post-burn recovery vegetation of former bayhead, former cypress dome or hammock communities, and prairietree island communities, including narrow beard grass, three-awn grass, love grass prairies and wax myrtle-saltbush thickets, as depicted on the vegetation maps prepared as a part of the East Everglades Resources Planning Project.

(b) Is flooded from three (3) to nine (9) months during a year when average rainfall occurs. (This boundary is calculated by the same method as that described above for Management Area 2.)

(c) Is flooded for less than three (3) months during a year when average rainfall occurs (calculated as described above), but is not contiguous with Management Area 1.

Management Area 3B is all land that is contiguous with Management Area 1 and is flooded less than three (3) months during a year in which average rainfall occurs.

Management Area 3C is all of the remaining land in the East Everglades Area of Critical Environmental Concern that is not within Management Areas 1, 2, 3A or 3B.

An official map of Management Areas 3A, 3B and 3C will be maintained by the Miami-Dade County Department of Planning and Zoning.

(B) *Determination of management area boundaries:* A person may file a request for a determination of management area boundaries with respect to a given parcel of land. Such request must be in writing and addressed to the Director of the Miami-Dade County Department of Environmental Resources Management (DERM). The Director of DERM shall respond in a timely manner and shall specify why the parcel is in the assigned management area.

(C) *Revision of management area boundaries:*

(1) Revisions to the map of "Management Areas of the East Everglades" may be made by the Department of Environmental Resources Management from time to time as more scientific information becomes available. Any revisions to the boundaries of the Management Areas should be based entirely on the criteria listed in part (A) of this section.

(2) Any individual may submit an application to revise the map of "Management Areas of the East Everglades" to the Director of the Department of Environmental Resources Management. Such application shall be in such form and contain sufficient information and documentation to allow an evaluation by the Department of Environmental Resources Management with respect to the criteria described in part (A) of this section.

(3) Revision of the Management Area map boundary shall be by public hearing by the Board of County Commissioners in the manner specified below in subsection (D).

(D) *Review of application:*

(1) Within fifteen (15) days after an application to revise the map of "Management Areas of the East Everglades" is submitted, the Director of Environmental Resources Management shall determine whether the application is complete. If the application is determined to be incomplete, a written statement specifying the deficiencies shall be sent to the applicant and no further action shall be taken on the application until the deficiencies are remedied.

(2) Within forty-five (45) days after receipt of a complete application, the Director of the Department of Environmental Resources Management shall review the application to revise the map of "Management Areas of the East Everglades" and shall decide whether the proposed revision should be issued or denied and the grounds for such decision. Such review and decision shall be based on the comments and recommendations of all other relevant County departments and a determination of whether the applicant has demonstrated compliance with the criteria set forth in part (A) of this section.

(3) An applicant for revision to the map of "Management Areas of the East Everglades" under the provisions of this section may appeal the decision of the Director of the Department of Environmental Resources Management to the Board of County Commissioners of Metropolitan Miami-Dade County.

(4) Notice of appeal shall be filed with the Clerk of the County Commission within fifteen (15) days.

(5) Upon receipt of a notice of appeal, the Clerk of the Commission shall place the application on the agenda of the next regular meeting of the Board of County Commissioners.

(6) The Board of County Commissioners of Metropolitan Miami-Dade County shall review the application, the decision of the Director of the Department of Environmental Resources Management and any additional information which may be submitted. The Commissioners may affirm, reverse or modify the decision of the Department of Environmental Resources Management. Such affirmance, reversal or modification shall be based on the extent to which the applicant has demonstrated compliance with the criteria set forth in part (A) of this section.

(Ord. No. 81-121, § 10, 10-27-81; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 23, 9-3-98)

Sec. 33B-31. Variances.

Notwithstanding anything in [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) (Zoning Code) of the Code of Metropolitan Miami-Dade County to the contrary, applications for variances to the provisions of this division must comply with the provisions of [Section 33B-28](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-28SAENST) (general standards for conditional use) of this division. The cumulative and/or secondary or induced impacts from a proliferation of the proposed development must also comply with the provisions of [Section 33B-28](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV2OVZORE_S33B-28SAENST) of this division.

(Ord. No. 81-121, § 11, 10-27-81)

Secs. 33B-32—33B-40. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 81-121, enacted Oct. 27, 1981, amended Ch. 33B, but did not specify the manner of disposition; therefore, inclusion of §§ 1—11 as Div. 2, §§ 33B-21—33B-31, has been at the discretion of the editor. [(Back)](#BK_FE176D2636F3D0B430BD6DDF000F32D2)

#### DIVISION 3. SEVERABLE USE RIGHTS [[4]](#BK_945E165CACC66B31A2B84DC518B58B5D)

[Sec. 33B-41. Purpose.](#BK_7B54DED8E498B13F7CA1EC729F81B285)

[Sec. 33B-42. Definitions.](#BK_4664295E981833BBD66D4AFC0668E01F)

[Sec. 33B-43. Severable use rights established.](#BK_3A2E006FEB55445865AF469FAA97F47E)

[Sec. 33B-44. Transfer of severable use rights.](#BK_1C938708D7F8AC6690FE3441B1289E15)

[Sec. 33B-45. Development of severable use rights.](#BK_D24D60917B23A335B6253BBF5EE1988F)

[Sec. 33B-46. Administrative appeal.](#BK_6A51C6D775EE905C75F62EE9ECFF9500)

[Sec. 33B-47. Consistency with Chapter 33 (Zoning Code) of the Code.](#BK_2CAB07FCAA219C1E417FC7903B1A9E26)

[Secs. 33B-48—33B-50. Reserved.](#BK_7A3FCACE12627674E4480C81A4756CC0)

Sec. 33B-41. Purpose.

In order to protect, enhance and preserve the public and private resources of the East Everglades and to achieve the goals of East Everglades Resources Planning Project, it is necessary and appropriate to create a system of land management and development regulations that will provide the owners of land located within the East Everglades Area of Critical Environmental Concern a development alternative to on-site development whereby they can secure a beneficial use of their property through off-site development without the expense and cumulative environmental degradation of on-site development. If the environmental integrity of the East Everglades and the surface and ground water resources it represents can be protected, then the capacity of Miami-Dade County as a whole to sustain and support new growth and development is maintained. This division is intended to facilitate the protection of the East Everglades resources and thereby permit growth and development in the County through a management program that ensures an equitable distribution, throughout the County, of the economic impacts and burdens of protecting the public and private resources of the East Everglades. The board hereby incorporates by reference Miami-Dade County Ordinance 81-1 [Division 1 of Article II of this chapter].

(Ord. No. 81-122, § 1, 10-27-81)

Sec. 33B-42. Definitions.

(a) *Developer* means any person undertaking development.

(b) *Development* means the carrying out of any use permitted on land by applicable zoning and environmental regulations (e.g., Chapters 9, 24 and 33 of Metropolitan Miami-Dade County Code) or making any material change in the use or character of land, including but not limited to excavation, rock plowing or other alteration of the topographic, geographic or hydrologic character of land in preparation or as a part of the commencement of new agricultural activities, the placement of structures on land; the clearing of land or a change in the intensity of use of land. Development shall include the ancillary activities such as road building and sewer construction that occur along with or as a result of any proposed land use. When appropriate to the context, development refers to the act of developing or the result of development.

(c) *Development bonus* means an increase in the intensity and/or density of development that can be carried out per unit of land.

(d) *Density* means the number of minimum size lots, units, or other measure of development intensity that can be located or developed on a specified unit of land.

(e) *Land* means the earth, water and air above, below or on the surface.

(f) *Owner* means the person with legal and/or equitable title to real property.

(g) *Parcel of land* means any quantity of land capable of being described with such definiteness that its location and boundaries may be established which is designated by its owner or developer as land to be used as a unit.

(h) *Person* means any and all persons, including but not limited to an individual, firm, association, organization, partnership, business trust, trust, corporation or company.

(i) *Severable use right* means a specially allocated, lawful permitted right of use of real property which inures to the benefit of the owner of a parcel of land, as created under this division.

(j) *Transferor parcel* means a parcel of land from which a severable use right has been severed.

(k) *Unimproved land* means land which is not developed for or used for residential purposes. In the event that a residential dwelling unit is located on a parcel of land which exceeds the minimum lot area required under the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Metropolitan Miami-Dade County Code on January 14, 1981, the area in excess of the minimum lot area shall be considered unimproved. (Ord. No. 81-122, § 2, 10-27-81)

Sec. 33B-43. Severable use rights established.

(a) The owners of unimproved land located in the East Everglades Area of Critical Environmental Concern shall have severable use rights in the amount set out in subsections (b), (c) and (d) of this section. The severable use rights allocated in this section may be used to obtain a development bonus in accordance with the provisions of this division for the development of suitable land in unincorporated Metropolitan Miami-Dade County, other than land located in the East Everglades Area of Critical Environmental Concern.

(b) Severable use rights are hereby established in the following ratios:

(1) In Management Area 1 as established in the ordinance declaring the East Everglades to be an area of critical environmental concern—One (1) severable use right per five (5) gross acres;

(2) In Management Area 3B as established in the ordinance declaring the East Everglades to be an area of critical environmental concern—One (1) severable use right per twelve (12) gross acres;

(3) In Management Area 3C as established in the ordinance declaring the East Everglades to be an area of critical environmental concern—One (1) severable use right per forty (40) gross acres.

(c) Notwithstanding the allocation of severable use rights in subsection (b) of this section, the owners of parcels of land in Management Areas 1, 3B and 3C, that were legally entitled to a density of one (1) dwelling unit as of January 14, 1981, under the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Metropolitan Miami-Dade County Code, but have less than the acreage specified in subsection (b) for a whole SUR, shall be entitled to an allocation of a single severable use right provided that:

(1) The subject parcel of land was not in common ownership with any adjacent parcel of land on, or after, January 14, 1981; and

(2) The subject parcel of land is registered with the Department of Planning and Zoning of Miami-Dade County within one (1) year of the effective date of this division, provided that at the time of registration the applicant can demonstrate that he or she was entitled to develop a single dwelling unit under the rules, regulations and ordinances of Miami-Dade County that were in effect on January 14, 1981.

(d) In the event that the owners of parcels of land fail to register for the severable use right provided for in subsection (c) of this section, they shall only be entitled to a fractional severable use right at the ratio specified in subsection (b) of this section. For example, in Management Area 1:

(1) A tract of two and five-tenths (2.5) acres shall have five-tenths (0.5) SUR,

(2) A tract of seven (7) acres shall have one (1) SUR,

(3) A tract of twelve (12) acres shall have two (2) SUR.

(e) The Director of the Department of Planning and Zoning of Miami-Dade County shall have the authority to establish a fee schedule following a public hearing, to establish other administrative items necessary to implement the intent of this division.

(Ord. No. 81-122, § 3, 10-27-81; Ord. No. 95-215, § 1, 12-5-95; Ord. No. 98-125, § 23, 9-3-98)

Sec. 33B-44. Transfer of severable use rights.

East Everglades severable use rights shall be freely transferable and may be used to secure a development bonus for the development of any parcel of land located within the land use regulatory jurisdiction of Metropolitan Miami-Dade County, provided that the development density or intensity of the parcel proposed for development complies with the standards and requirements of [Section 33B-45](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV3SEUSRI.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV3SEUSRI_S33B-45DESEUSRI) of this division. The purchase of severable use rights shall vest legal rights in the purchaser to utilize said rights within unincorporated Miami-Dade County. The purchaser of severable use rights shall have the affirmative duty to demonstrate that an instrument of conveyance or the use of a severable use right has been recorded in the chain of title in accordance with [Section 33B-45](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV3SEUSRI.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV3SEUSRI_S33B-45DESEUSRI)(f) of this division.

(Ord. No. 81-122, § 4, 10-27-81)

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

(a) The use of severable use rights for development in accordance with the provisions of this section shall be development permitted as of right under the provisions of [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) of the Metropolitan Miami-Dade County Code.

(b) Severable use rights may only be used to secure a development bonus for the development of lands located in unincorporated portions of Metropolitan Miami-Dade County which are designated in the Comprehensive Development Master Plan metropolitan development pattern map for urban development, that is, within all of the development patterns except agriculture and open land, parks and recreation, and environmental sensitivity.

(c) Development of severable use rights shall be in accordance with all of the requirements of the Metropolitan Miami-Dade County Code, except as specifically modified by subsection (g) of this section.

(d) The developer must demonstrate that he or she is the bona fide owner of the severable use right to be entitled to the development bonus.

(e) The developer must demonstrate that the severable use rights proposed for development allocated to the transferor parcel of land under this division have not previously been used to secure a development bonus.

(f) The developer must demonstrate that an instrument of conveyance or the use of the severable use right has been recorded in the chain of title of the parcel of land from which the severable use rights is transferred and that such instrument restricts the use of the transferor lands to nonresidential uses.

(g) Residential use of severable use rights. Except as provided in paragraph (g)(15) below and notwithstanding the provisions of any other code or regulation of Miami-Dade County, the developer of a parcel of land may develop, in addition to the number of dwelling units authorized in each zoning district, one (1) dwelling unit for each severable use right, provided that the total development proposed does not exceed the following limitations:

(1) In the EU-2 District:

a. Minimum lot size—Four (4) acres;

b. Minimum frontage—One hundred sixty-five (165) feet;

c. Maximum coverage—Twenty (20) percent.

(2) In the EU-1C District:

a. Minimum lot size—Two (2) acres;

b. Minimum frontage—One hundred twenty-five (125) feet.

(3) In the EU-1 District:

a. Minimum lot size—Thirty-two thousand five hundred (32,500) square feet;

b. Minimum frontage—One hundred ten (110) feet.

(4) In the EU-S District:

a. Minimum lot size—Twenty thousand (20,000) square feet;

b. Minimum frontage—One hundred ten (110) feet.

(5) In the EU-M District:

a. Minimum lot size—Twelve thousand five hundred (12,500) square feet;

b. Minimum frontage—One hundred (100) feet.

(6) In the RU-1 District:

a. Minimum lot size—Six thousand (6,000) square feet;

b. Minimum frontage—Sixty (60) feet;

c. Maximum coverage—Forty (40) percent.

(7) In the RU-2 District:

a. Minimum lot size—Six thousand (6,000) square feet;

b. Minimum frontage—Sixty (60) feet;

c. Maximum coverage—Forty (40) percent.

(8) In the RU-TH District:

a. Maximum density—Ten (10) du/acre;

b. Minimum lot size—One thousand eight hundred (1,800) square feet;

c. Minimum front setback—Ten (10) feet.

(9) In the RU-3M District:

a. Maximum density—Fifteen (15) du/acre;

b. Maximum floor area ratio—0.60;

c. Maximum height—Three (3) stories;

d. Maximum coverage—Thirty-five (35) percent.

(10) In the RU-4L District:

a. Maximum density—Twenty-five (25) du/acre;

b. Maximum floor area ratio—0.9;

c. Maximum height—Six (6) stories;

d. Maximum coverage—Thirty-five (35) percent.

(11) In the RU-4M District:

a. Maximum density—Forty (40) du/acre;

b. Maximum floor area ratio—1.0;

c. Maximum height—Nine (9) stories;

d. Maximum coverage—Thirty-five (35) percent.

(12) In the RU-4 District:

a. Maximum density—Fifty-five (55) du/acre;

b. Maximum height—One (1) additional story;

c. Maximum floor area ratio—2.2 for a development over nine (9) stories.

(13) In the RU-4A District:

a. Maximum density:

1. Apartments—Fifty-five (55) du/acre;

2. Hotel rooms—Eighty-five (85) du/acre;

b. Maximum height—One (1) additional story;

c. Maximum floor area ratio—2.2 for a development over nine (9) stories.

(14) In the PAD District: A bonus of twenty (20) percent in the number of residential dwelling units above the maximum density set forth on the Comprehensive Development Master Plan Land Use Plan Map as permitted by the Land Use Element of the Comprehensive Development Master Plan.

(15) In all Community Urban Center zoning districts: Developments located on parcels of land that are in the Core or Center Sub-districts of Community Urban Center zoning districts and that are designated as Mixed Use Main (MM), Mixed Use Corridor (MC), or Mixed Use U.S. 1 (M1) on the respective Land Use Regulating Plan, may develop, in addition to the number of dwelling units authorized in the Land Use Regulating Plan, up to 8 dwelling units at the rate of 2 dwelling units for each severable use right.

(h) Commercial development of severable use rights. The developer of a parcel of land in the BU-1, BU-1A, BU-2 and BU-3 Districts may secure a development bonus of additional floor area ratio of .015 per acre for each severable use right. In no event shall a development in a BU-1 and BU-1A District exceed forty-five (45) percent lot coverage. In no event shall a development in a BU-2 and BU-3 District exceed fifty (50) percent of lot coverage.

The developer of a parcel of land in the OPD district may secure a development bonus of additional floor area ratio of .010 per acre for each severable use right.

(i) In the event the use of severable use rights involves development above the underlying permitted height or lot coverage or floor area ratio restriction in the district the parcel proposed by development is located, each dwelling unit and every square foot of nonresidential building above the underlying height or lot coverage or floor area ratio restriction shall be derived from severable use rights.

(Ord. No. 81-122, § 5, 10-27-81; Ord. No. 89-54, § 1, 6-6-89; Ord. No. 02-232, § 1, 11-19-02; Ord. No. 05-143, § 13, 7-7-05)

Sec. 33B-46. Administrative appeal.

In the event that an owner or other aggrieved party alleges an error in any order, requirement, decision or determination made by an administrative official in the interpretation of any portion of these provisions, an appeal may be filed pursuant to the provisions of [Section 33-311](../level3/PTIIICOOR_CH33ZO_ARTXXXVIZOPR.docx#PTIIICOOR_CH33ZO_ARTXXXVIZOPR_S33-311COZOAPBOUTDU)(c) of the Code. (Ord. No. 81-122, § 6, 10-27-81)

Sec. 33B-47. Consistency with Chapter 33 (Zoning Code) of the Code.

Notwithstanding anything in [Chapter 33](../level2/PTIIICOOR_CH33ZO.docx#PTIIICOOR_CH33ZO) (Zoning Code) of the Code of Metropolitan Miami-Dade County to the contrary, the provisions of this division shall be deemed to supersede all conflicting provisions. This division is intended to ensure an equitable distribution of development rights throughout the county as a means of addressing the burdens of protecting public and private resources of the East Everglades as defined herein.

(Ord. No. 81-122, § 7, 10-27-81)

Secs. 33B-48—33B-50. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 81-122, adopted Oct. 27, 1981, amended Ch. 33B but did not specify manner of codification; hence, inclusion of §§ 1—7 as Art. II, Div. 3, §§ 33B-41—33B-47, has been at the editor's discretion. Ord. No. 81-132, adopted Dec. 15, 1981, postponed the effective date of Ord. No. 81-122 from Jan. 1 to March 1, 1982. [(Back)](#BK_76AA196D6C301396AF5B0948EBC4B3E3)

#### DIVISION 4. WETLANDS DISCLOSURE [[5]](#BK_CC3603F17C017D446BED457E96EF40F7)

[Sec. 33B-51. Title.](#BK_554EBAF108EC44900AB23C26F3A41FDB)

[Sec. 33B-52. Purpose.](#BK_2D9F2D6ACE6BCF1F4F5B073CB1B58B25)

[Sec. 33B-53. Definitions.](#BK_D18012C5C488C17F958ECF13E157AD75)

[Sec. 33B-54. Disclosure statement for land transactions in the East Everglades Area of Critical Environmental Concern.](#BK_A49922E59953452E1E0A1D8D06A80A6A)

[Sec. 33B-55. Acknowledgment of wetlands disclosure statement on instrument of conveyance.](#BK_2384A139E34C5A9E0639A8EDC73A1419)

[Sec. 33B-56. Failure to disclose.](#BK_3E4848751DD920E4EDB1451A38DF07B7)

[Sec. 33B-57. Exclusions to East Everglades Wetlands Disclosure Law.](#BK_872681D2A3AD38DD7F83223EAD61505E)

Sec. 33B-51. Title.

This division shall be known as the "East Everglades Wetlands Disclosure Law."

(Ord. No. 82-113, § 2, 12-21-82)

Sec. 33B-52. Purpose.

In order to seek to ensure that the purchasers of land located in the East Everglades Area of Critical Environmental Concern are fully apprised of the character of the lands in the East Everglades, and in particular that such lands are subject to periodic flooding, it is necessary and appropriate that the seller of such lands disclose to all purchasers, or potential purchasers, the character of such lands prior to purchase or agreement to purchase. This division is adopted in order to seek to protect the potential purchasers of land from misrepresentations as to the suitability of land for residential use and is in furtherance of the goals and objectives of Article II, Divisions 1, 2 and 3. (Ord. No. 82-113, § 3, 12-21-82)

Sec. 33B-53. Definitions.

(a) *Interest in real property* means a nonleasehold, legal or equitable estate in land or any severable part thereof created by deed, contract, mortgage, easement, covenant or other instrument.

(b) *Purchaser* means a buyer, transferee, grantee, donee or other party acquiring an interest in real property.

(c) *Real property transaction* means the sale, grant, conveyance, mortgage or transfer of an interest in real property.

(d) *East Everglades Area of Critical Environmental Concern* means that area legally described in [Section 33B-13](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV1GE_S33B-13DEAR)(a) of the Code of Metropolitan Miami-Dade County, Florida, attached hereto as Exhibit A, but excluding those areas described in [Section 33B-57](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI_S33B-57EXEAEVWEDILA)

(Ord. No. 82-113, § 4, 12-21-82)

Sec. 33B-54. Disclosure statement for land transactions in the East Everglades Area of Critical Environmental Concern.

(a) All transactions involving the sale or transfer of real property or interest in real property located within the East Everglades Area of Critical Environmental Concern shall include in the documents of conveyance the following statement:

THE LAND WHICH IS THE SUBJECT OF THIS TRANSACTION IS LOCATED IN THE EAST EVERGLADES AREA OF CRITICAL ENVIRONMENTAL CONCERN. THE LAND IS SUBJECT TO PERIODIC, NATURAL FLOODING, WHICH POSES A SERIOUS RISK TO PERSONS AND PROPERTY IN THE AREA AND MAKES THE PROPERTY UNSUITABLE FOR RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT.

METROPOLITAN MIAMI-DADE COUNTY AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT HAVE OFFICIALLY DETERMINED THAT FLOOD PROTECTION FOR THIS AREA WILL NOT BE PROVIDED WITH PUBLIC MONIES.

METROPOLITAN MIAMI-DADE COUNTY HAS ALSO DETERMINED THAT IT WILL NOT CONSTRUCT ANY NEW ROADS IN THE AREA OF CRITICAL ENVIRONMENTAL CONCERN AND WILL MAINTAIN ONLY THE FOLLOWING ROADS: SW 136 STREET FROM SW 187 AVENUE TO SW 209 AVENUE; SW 168 STREET FROM LEVEE L-31N TO SW 237 AVENUE; SW 237 AVENUE FROM SW 168 STREET TO SW 160 STREET; INGRAHAM HIGHWAY (FORMERLY SR 27).

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE FOREGOING STATEMENT.

|  |  |
| --- | --- |
| \_\_\_\_\_ | \_\_\_\_\_ |
| Signature | Date |

(b) The statement in subsection (a) of this section shall be set forth on a separate sheet of paper and shall be signed by the purchaser prior to the execution of any other instrument committing the purchaser to acquire said real property or to acquire any interest therein.

(Ord. No. 82-113, § 5, 12-21-82)

Sec. 33B-55. Acknowledgment of wetlands disclosure statement on instrument of conveyance.

The following statement shall appear in a prominent location on the face of any instrument committing a purchaser to acquire real property or any interest therein in the East Everglades Area of Critical Environmental Concern:

I HEREBY CERTIFY THAT I HAVE READ AND SIGNED THE WETLANDS DISCLOSURE STATEMENT REQUIRED FOR THE SALE OF THIS PARCEL OF LAND.

|  |  |
| --- | --- |
| \_\_\_\_\_ | \_\_\_\_\_ |
| Signature | Date |

(Ord. No. 82-113, § 6, 12-21-82)

Sec. 33B-56. Failure to disclose.

Failure to substantially comply with the requirements of Sections [33B-54](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI_S33B-54DISTLATREAEVARCRENCO) and [33B-55](../level4/PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI.docx#PTIIICOOR_CH33BARCRENCO_ARTIIEAEV_DIV4WEDI_S33B-55ACWEDISTINCO) shall make the sale of the real property or interest therein voidable at the purchaser's option, for a period of seven (7) years from the date of the agreement. (Ord. No. 82-113, § 7, 12-21-82)

Sec. 33B-57. Exclusions to East Everglades Wetlands Disclosure Law.

The provisions of the East Everglades Wetlands Disclosure Law do not apply to all of Sections 14, 21, 22, 23, 27, 28; the south half of [Section 11](../level2/PTIIICOOR_CH11CO.docx#PTIIICOOR_CH11CO) and the south half of the north half of [Section 11](../level2/PTIIICOOR_CH11CO.docx#PTIIICOOR_CH11CO); the east half of [Section 15](../level2/PTIIICOOR_CH15SOWAMA.docx#PTIIICOOR_CH15SOWAMA); the east half of [Section 16](../level2/PTIIICOOR_CH16GEOBBO.docx#PTIIICOOR_CH16GEOBBO); all land in [Section 26](../level2/PTIIICOOR_CH26PAREDERURE.docx#PTIIICOOR_CH26PAREDERURE) which lies northerly and westerly of Levee L-31-N; the east half of the east half of [Section 29](../level2/PTIIICOOR_CH29TA.docx#PTIIICOOR_CH29TA); all within Township 55 South, Range 38 East, Miami-Dade County, Florida; or to any other parcels of real property in the East Everglades Area of Critical Environmental Concern when the sale or transfer of the subject property is to the South Florida Water Management District.

(Ord. No. 82-113, § 8, 12-21-82; Ord. No. 97-89, § 2, 6-17-97)

FOOTNOTE(S):

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**Editor's note—** At the editor's discretion, §§ 2—8 of Ord. No. 82-113, adopted Dec. 21, 1982, have been included as Div. 4, §§ 33B-51—33B-57 of Art. II, § 1, which incorporated the provisions of the preamble by reference, has not been included herein. [(Back)](#BK_015A2CDBE6C50321D3E67BE31998D3FD)