AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 35 OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED (THE "CODE"), ENTITLED "MOTOR VEHICLES AND TRAFFIC/COCONUT GROVE BUSINESS DISTRICT AND DESIGN DISTRICTS PARKING IMPROVEMENT TRUST FUNDS," BY CREATING A NEW SECTION 35-220 ENTITLED "REQUIRED OFF-STREET PARKING AND PAYMENT IN LIEU OF REQUIRED OFF STREET PARKING"; AMENDING SECTION 35-221 ENTITLED "COCONUT GROVE PARKING IMPROVEMENT TRUST FUND ESTABLISHED"; CREATING SECTION 35-222 ENTITLED "REVOCATION OF CERTIFICATE OF USE FOR NON-PAYMENT OF PARKING WAIVERS"; AMENDING SECTION 35-224 ENTITLED "SCHEDULE OF FEES AND CHARGES FOR COCONUT GROVE PARKING TRUST FUND"; TO CLARIFY THE OFF-STREET PARKING REQUIREMENTS AND PROVIDE FOR ENFORCEMENT PROVISIONS FOR PAYMENT OBLIGATIONS CONTAINED THEREIN; CONTAINING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Miami ("City") is authorized by Section 166.271, Florida Statues, to collect a parking space waiver fee within the City of Miami, in the Coconut Grove Village Center as defined by Section 35-221 of the code of the City of Miami, Florida, as amended (the "Code"); and

WHEREAS, the City is authorized to promote, protect, and improve the health, safety, and welfare of its citizens; and

WHEREAS, the City’s current collection of the parking space waiver fee facilitates public off-street parking, infrastructure improvements and maintenance and marketing within the Coconut Grove Village Center; and

WHEREAS, the City wishes to ensure that its collection of the parking space waiver fee is properly enforced, allowing the City to use the monies as described above;

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

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted and incorporated as if fully set forth in this Section.

Section 2. Chapter 35 of the Code of the City of Miami, Florida, as amended, is further amended in the following particulars:{1}

"CHAPTER 35
MOTOR VEHICLES AND TRAFFIC"
ARTICLE V. COCONUT GROVE BUSINESS DISTRICT AND DESIGN DISTRICTS PARKING IMPROVEMENT TRUST FUNDS

Section 35-220 Required off-street parking and payment in lieu of required off street parking
The minimum off-street parking requirements shall be as depicted herein and/or in the zoning ordinance of the City of Miami. Said minimum parking requirements may be satisfied by providing the parking as stated in the zoning ordinance or by payment in lieu of required off-street parking, as described herein.

1. Upon application to the planning director, the owner of a property may request a waiver of any or all of the eligible parking spaces, as specified in the zoning ordinance by substituting the payment of a fee per space in lieu of providing the required parking spaces.

2. If the application for the waiver of required off-street parking is approved by the planning director, the property owner shall pay the required fee per space to the department of off-street parking for deposit in a special fund, depending on the area for which the parking is located.

3. Except as otherwise permitted for required supplemental parking for those uses specified in the minimum required parking chart included in the zoning ordinance, payment of the required fee per space shall be made in the form of a payment of a fixed amount. The rental fee in lieu of required supplemental parking shall be paid in accordance with chapter 35-224 below, as long as the supplemental parking spaces for the specified use are required.

4. Fees for the parking waiver shall be as established by this chapter and the zoning ordinance.

5. If a property owner is entitled to pay a fee in lieu of providing required parking as provided for in this section, the initial payment shall be made in advance to the Coconut Grove parking improvement trust fund, (the "Coconut Grove parking trust fund") as specified in the letter granting the waiver, and as a condition precedent to the issuance of a parking waiver certificate, and of a certificate of use. Failure to make any required payment shall cause the parking waiver and the certificate of use to be revoked.

6. Evidence of issuance of a waiver of required off-street parking shall be in the form of a certificate of waiver, recorded in the Public Records of Miami-Dade County, at property owner's expense issued in the name of the owner of the property for which the waiver is granted. The date on the certificate shall be the effective date of the waiver thereby granted. Such certificate shall carry a statement allowing the waiver to be transferred by the planning director to a new owner within ninety (90) days of a written request to the director. Said transfer shall be granted, provided that all fees are current and other requirements have been satisfied. A certificate of use shall not be issued for the use of any property for which the parking requirements have not been satisfied as provided for herein.

7. The waiver of required off-street parking shall be applicable only to the structure and use for which it is issued. New development or additions, or any construction generating additional square footage of floor space or increasing the floor lot ratio, shall be required to comply with the parking requirements for said additions or obtain proper parking approvals. Certificates of parking waiver may be modified to include new square footage as long as the overall thresholds as specified in the zoning ordinance are not exceeded.

8. A waiver of required supplemental off-street parking issued under the provisions of this section shall be revoked if any required fees remained unpaid for more than ninety (90) days after the date due.

Section 35-221 Coconut Grove Parking Improvement Trust Fund Established
(a)
There is hereby established a trust fund to be entitled the Coconut Grove business district parking.
improvement trust fund, (the "Coconut Grove parking trust fund") to be maintained and administered by the department of off-street parking into which funds shall be deposited and from which funds shall be withdrawn pursuant to sections 35-222 and 35-224 this chapter to facilitate public off-street parking, infrastructure improvements and maintenance and marketing to serve the area referred to herein as "Coconut Grove Village Center" generally bound by Oak Avenue and Tiger Tail Avenue to the North, S.W. 27th Avenue, South Bayshore Drive, both sides of McFarlane from Grand Avenue to South Bayshore Drive, both sides of Grand Avenue from Margaret Street to Mary Street, both sides of Main Highway from Grand Avenue to Commodore Plaza, both sides of Commodore Plaza, and the North side of Main Highway from Commodore Plaza to Franklin Avenue consisting of that portion of the area formerly known as the SD-2 zoning district east of Margaret Street, that portion of the area formerly known as of the SD-17 zoning district west of S.W. 27th Avenue, and that zone designated G/I in the city's official zoning atlas and bounded by Charles Avenue on the south and Main Highway on the east and presently occupied by the Coconut Grove Playhouse (these areas shall be referred to herein as "Coconut Grove Village Center") through means which may include, but are not limited to the following activities:

1. Acquire fee simple or other interest in land, and other real property for parking purposes;
2. Construct, maintain, operate, lease, manage, or otherwise provide off-street parking facilities for public use;
3. Provide public information to enhance parking utilization including publicity campaigns, graphics and signage, and other informational devices;
4. Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, particularly the joint facilities that might be operated in connection with Metrorail and any feeder services existing or future;
5. Provide accessibility to off-street parking facilities by suitable means such as public shuttle, tram or trolley service and related physical improvements such as bus shelters and right-of-way modifications which may include the area from Bayshore Boulevard to the Coconut Grove Village Center;
6. Perform such other related activities as may be appropriate to carry out the intent of this article including, but not limited to, reimbursement of administrative costs, infrastructure improvements in the public right-of-way, contributing to maintenance of the public sidewalks within the business district defined herein, as well as destination marketing.

It is the intent of this article that at least 90 percent of the funds, as determined at the beginning of each fiscal year, in the trust fund shall be utilized for subsections (a)(1)-(6). At least ten percent of the funds must be maintained as reserves.

Any such shuttle, tram or trolley service, as mentioned in subsection (a)(65), shall be subject to yearly evaluation of the Coconut Grove business improvement district board.

Sec 35-222 reserved. Revocation of certificate of use for non-payment of parking waivers
Failure to make any payment required by this article shall cause the zoning administrator to revoke the parking waiver certificate and the certificate of use. The zoning administrator shall revoke a parking waiver certificate and a certificate of use if any required fees remain unpaid for more than sixty (60) days after the date due. Said revocation of the parking waiver certificate and certificate of use shall be effective immediately upon the department of off-street parking’s notification to the zoning.
administrator that the required fees remain unpaid for more than sixty (60) days after the date due. The department of off-street parking shall notify the parking waiver certificate holder and certificate of use holder of the pending revocation by posting notice at the property, hand delivering a notice, or mailing a notice. A parking waiver certificate holder or certificate of use holder may reinstate the certificates by paying any unpaid fees. A parking waiver certificate holder or certificate of use holder may challenge the revocation by requesting a hearing with the Zoning Administrator within ten days of receiving notice. Upon presenting such evidence to the Zoning Administrator of proper payment, the zoning administrator shall immediately reinstate any revoked certificates. The city shall not issue a certificate of use for the use of any property for which the parking requirements have not been satisfied as provided in this section.

Sec 35-223 Same - Funds made available; financial report.

(a) Funds deposited in the Coconut Grove parking trust fund shall be made available to the Coconut Grove business improvement district board ("BID board") for the purposes set forth in section 35-221 and for administrative expenses.
(b) A financial report on trust fund receipts and expenditures shall be prepared annually at the close of the fiscal year by the off-street parking department and presented to the BID board for its review and approval prior to filing with the city clerk.

Sec 35-224. Same-Schedule of fees and charges for Coconut Grove parking trust fund

The schedule of fees and charges to be assessed and paid into the Coconut Grove parking trust fund is as follows:
(1) Fee in lieu of providing required off-street parking for sidewalk cafes: in addition to the $20.00 per square foot permit fee required by the public works department, as specified in section 54-223, there shall be paid an additional fee as set forth in subsections (3)c. and (3)e., in lieu of providing required off-street parking, said funds shall be paid monthly into the Coconut Grove parking Coconut Grove business district improvement trust fund.
(2) All property owners currently in possession of base parking space waivers as provided in Ordinance 11052, shall pay $540.00, per space per year, payable monthly (the "annual payment"). The annual payment shall be inflation adjusted once at the end of each five year period. The first inflation adjustment shall commenced on January 1, 2007, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). All property owners currently in possession of base parking space waivers shall have the option of converting the existing waivers to conform to the provisions set forth in subsection (3).
(3) Fee in lieu of providing required off-street parking for the area formerly known as the SD-2 zoning district herein described as the "Coconut Grove Central Commercial District", which consists of three general areas. Area A generally consists of both sides of S.W. 37th Avenue from Oak Avenue to Grand Avenue, and both sides of Grand Avenue from Brooker Street to Hibiscus Street. Area B is generally bound to the North by Oak Avenue from Allamanda Street to Mary Street, Mary Street to the East, includes both sides of Grand Avenue from Margaret Street to Mary Street, both sides of McFarlane Road from Grand Avenue to South Bayshore Drive, both sides of Main Highway from Grand Avenue to Commodore Plaza including both sides of Commodore Plaza and Fuller Street.
Area C includes the North Side of Main Highway from Charles Avenue to Franklin Avenue, pursuant to article 6 of Ordinance No. 11000, as amended, the Zoning Ordinance No. 11000, as amended, the zoning ordinance of the City of Miami (the "zoning ordinance"), shall be as follows:

a.
A purchase price of $5,400.00 per parking space waiver (the "purchase price.") The purchase price shall be inflation adjusted once at the end of each five-year period. The first such adjustment shall occurred on January 1st, 2007, reflecting the change from the prior year only, using the consumer price index urban consumers (CPI-U). The purchase price shall be paid in either of the following two ways, at the option of the property owner:

1. Permanent certificate of waiver. Payment of the purchase price may be made at the time of application for a permanent certificate of waiver. Upon receipt of the purchase price, the city shall issue a "permanent certificate of waiver," recorded at the property owner's expense in the public records of Miami-Dade County, Florida, to the property owner. The permanent certificate of waiver shall run with the land, and may be leased to another owner of real property within the area formerly known as SD-2 district, now known as the Coconut Grove Central Commercial District, with boundaries as described above, in accordance with section 602.10.4 of the zoning ordinance.

2. Installment payment program. The purchase price may be paid in installments over a self-amortizing period of 15 years, but with a balloon payment after ten years from date of execution of an installment payment agreement for permanent certificate of waiver (the "agreement"), with interest at one percent below the bank prime rate. Each installment shall be referred to as a "payment." Bank prime rate shall refer to the rate set by the banking institution used by the department of off-street parking (the "department"). Payments shall be due and payable on the 1st of each month (the "due date"). The property owner shall pay a late fee of five percent of each payment which is not received within 15 days of the due date. Payments not made within 30 days after the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees. If any payment is returned because of insufficient or uncollected funds in addition to any other fee or charge due, the property owner shall be liable for a returned check charge in the amount of five percent of the amount of the check; in such event, the department of off-street parking may require that all future payments be made by cashier's check. In the event any payment is not received by the department of off-street parking within 90 days of the due date, the applicable certificate(s) of waiver shall be revoked by the zoning administrator, and the property owner shall forfeit any and all rights thereunder, and any amounts paid pursuant to the agreement, and shall not be entitled to participate further in the installment payment program, unless its to avail themselves of an alternate installment payment program that becomes available. Notwithstanding the foregoing, the property owner shall remain responsible for providing parking, or apply and pay for the necessary monthly parking space waivers or make full payment.

b. Reserved.

c. The rental fee in lieu of providing the supplemental off-street parking required for restaurants, as specified in section 602.10.1 of the zoning ordinance, shall be $600.00 per parking space, per year, to be paid on a monthly basis, until a reduction of waiver certificate is obtained.

d. Supplemental off-street parking spaces may be purchased for a fee, as set forth in subsection (3)a.1 or 2., as may be applicable.

e. All payments set forth in this subsection (3) shall be inflation-adjusted once at the end of each
five-year period, the first such adjustment shall commenced on January 1st, 2007, reflecting the change from the prior year only, through the consumer price index-urban consumers (CPI-U).

f. Payment of the fees set forth in subsections (3)a., b., and d., hereinabove shall permanently exempt the respective property from the corresponding parking requirement for such use as specified in the certificate of waiver.

(4) Security deposit; fees. At time of execution of the waiver application, except for those property owners participating in the installment payment agreement for permanent certificate of waiver, the property owner shall provide the department of off-street parking with a security deposit or with a performance bond in an amount sufficient to secure three months' payments under the waiver application. All documentation, including the form of the security deposit and the performance bond shall be subject to the approval of the city attorney as to form and correctness, and the performance bond shall be subject to the review and approval of the city's risk manager. In the event the property owner fails to make payments for a total of three consecutive months, the property owner shall forfeit any right and interest to the security deposit or performance bond, whichever may be applicable. Upon such default, the department of off-street parking shall retain the entire amount of the security deposit or performance bond.

(5) Fees in subsections (1) through (3) shall be due and payable on the 1st of each month (i.e. due date). Fees not received within 15 days of the due date shall be charged a late fee of five percent of the amount due. Fees not received within 30 days of the due date shall be charged interest at the rate of ten percent per annum calculated monthly on the unpaid balance, including applicable late fees.

Section 3. If any section, part of a section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 4. This Ordinance shall become effective thirty (30) days after final reading and adoption thereof.\{2\}

APPROVED AS TO FORM AND CORRECTNESS:

[Signature]

JULIE O. BRU
CITY ATTORNEY

Footnotes:
{1} Words/and or figures stricken through shall be deleted. Underscored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

{2} This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.