



## APPLICATION FOR MODIFICATION OF RESTRICTIVE COVENANT

**LIST ALL FOLIO #S:** \_\_\_\_\_

**DATE RECEIVED:** \_\_\_\_\_

**PROPOSED PROJECT NAME:** \_\_\_\_\_

- 1. NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

\_\_\_\_\_  
\_\_\_\_\_

**2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone#: \_\_\_\_\_

**3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone#: \_\_\_\_\_

**4. CONTACT PERSON'S INFORMATION:**

Name: \_\_\_\_\_ Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone# \_\_\_\_\_ Fax# \_\_\_\_\_ E-mail: \_\_\_\_\_





**5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION**

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, and range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

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**6. ADDRESS OR LOCATION OF PROPERTY** (For location, use description such as NE corner of, etc).

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**7. SIZE OF PROPERTY** (in acres): \_\_\_\_\_ (divide total sq. ft. by 43,560 to obtain acreage)

**8. DATE PROPERTY**  acquired  leased: \_\_\_\_\_

**9. LEASE TERM:** \_\_\_\_\_ Years (Month & year)

**10. IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S),** provide Complete legal description of said contiguous property.

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**11. Is there an option** to purchase  or lease  the subject property or property contiguous thereto?  no  yes (if yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

\_\_\_\_\_

**12. PRESENT ZONING AND FLU CLASSIFICATION:** \_\_\_\_\_

**13. PROPOSED USE OF PROPERTY** (describe nature of the request in space provided)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**14. Has a public hearing been held on this property within the last year & a half?**

No  yes.

If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

\_\_\_\_\_  
\_\_\_\_\_

**15. Is this hearing a result of a violation notice?**

No  yes. If yes, give name to whom the Violation notice was served and describe the violation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**16. Does property owner own contiguous property to the subject property? If so, give complete legal description of entire contiguous property:**

\_\_\_\_\_

**17. Is there any existing use on the property?**  No  yes. If yes, what use and when established?

Use: \_\_\_\_\_ Year: \_\_\_\_\_





**18. Submitted Materials Required:**

**Please check all that Apply:**

- Letter of intent
- Justifications for change
- Statement of hardship
- Proof of ownership or letter from owner
- Power of attorney
- Contract to purchase (if applicable)
- Current survey (2 original sealed and signed and 10 reduced 11x17 copies)
- Complete set of plans 24'x36", scale 1'=50' (2 original sealed and signed and 10 reduced 11x17 copies)
- Colored rendering of all 4 sides of each proposed building (If applicable)
- 20% Property owner signatures (If required)
- Mailing Labels (set amount depends on number of hearings) and map (If required)
- Required Fee(s)
- Plans must be approved by Miami-Dade County Fire and Rescue Department with an original stamp and signature from the Fire Dept.
- Necessary documentation from DERM and WASD





**APPLICANT'S AFFIDAVIT**

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

**OWNER OR TENANT AFFIDAVIT**

(I)(WE), \_\_\_\_\_, being first duly sworn, depose and say that (I am)(We are) the  owner  tenant of the property described and which is the subject matter of the proposed hearing.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

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**CORPORATION AFFIDAVIT**

(I)(WE), \_\_\_\_\_, being first duly sworn, depose and say that (I am)(We are) the  President  Vice-President  Secretary  Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the  owner  tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Office Held

(Corp. Seal)

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

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**PARTNERSHIP AFFIDAVIT**

**(I)(WE)**, \_\_\_\_\_, being first duly sworn, depose and say that

(I am )(We are) partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the  owner  tenant of the property described herein which is the subject matter of the proposed hearing.

By \_\_\_\_\_%  
By \_\_\_\_\_%

\_\_\_\_\_  
(Name of Partnership)  
By \_\_\_\_\_  
By \_\_\_\_\_

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

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**ATTORNEY AFFIDAVIT**

I, \_\_\_\_\_, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

\_\_\_\_\_  
Signature

Sworn to and subscribed to before me  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Notary Public: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_





## **RESPONSIBILITIES OF THE APPLICANT**

### **I AM AWARE THAT:**

1. The Department Environmental Resources Management (DERM), and other agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other boards, and /or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Application withdrawn within 30 days of the filing are eligible for a refund of 25% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3<sup>rd</sup> District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc. Case No. 3d01-2347 (Fla. 3<sup>rd</sup> DCA 2002), the 3<sup>rd</sup> District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Department professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.
6. Any covenant to be proffered must be submitted to the Town of Cutler Bay Legal Counsel, on Town form, at least 1 month prior to the hearing date. The covenant will be





reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date.

- 7. The Town of Cutler Bay Department of Public Works reviews and critiques Zoning applications and may require conditions for approval.
- 8. Each party will be limited to a presentation of 20 minutes. This time limitation may be extended by the Chair of the meeting.
- 9. THE APPLICANT IS RESPONSIBLE FOR TRACKING THE STATUS OF THE APPLICATION AND ALL HEARINGS THAT MAY BE ASSOCIATED WITH THIS APPLICATION.**

\_\_\_\_\_

(Applicant's Signature)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Affiant is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_







### DISCLOSURE OF INTEREST

If the property, which is the subject of the Application, is owned or leased by a **CORPORATION**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

\_\_\_\_\_

Corporation Name

Name, Address and Office	Percentage of stock
_____	_____
_____	_____
_____	_____

If the property, which is the subject of the Application, is owned or leased by a **TRUSTEE**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

\_\_\_\_\_

Trust Name

Name, Address and Office	Percentage of stock
_____	_____
_____	_____
_____	_____

If the property, which is the subject of the Application, is owned or leased by a **PARTNERSHIP or LIMITED PARTNERSHIP**, list the Principal Stockholders and the percentage of stock owned by each. NOTE: Where the Principal Officers or Stockholders consist of another Corporation(s), Trustee(s), Partnership(s) or other similar entities, further disclosure shall be required which discloses the identity of the individual(s) (natural persons) having the ultimate ownership interest in the aforementioned entity.

\_\_\_\_\_

Partnership or Limited Partnership Name

Name, Address and Office	Percentage of stock
_____	_____
_____	_____
_____	_____





## COST RECOVERY AFFIDAVIT

I hereby acknowledge and consent to the payment of **all applicable fees** involved as part of my application process. These fees include but are not limited to: application fees, postage, advertising, and attorney fees **regardless of the outcome of the public hearing.**

Please type or print the following:

Date: \_\_\_\_\_ Public Hearing No. \_\_\_\_\_

Full Name:

Mr. Mrs. Ms. \_\_\_\_\_

Current Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Telephone Number (\_\_\_\_) \_\_\_\_\_

Date of Birth: \_\_\_\_\_

\_\_\_\_\_  
Signature

SWORN AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Florida at Large

My Commission expires \_\_\_\_\_ 20\_\_\_\_

Pursuant to Ordinance No. 2000-09-33-Cost Recovery

