MEMORANDUM

TO: The Honorable Mayor and City Commission

FROM: Hans Ottinot, City Attorney

DATE: 7/19/2012

RE: Ordinance Amending Section 265-23 & 265-25 of the LDRs

RECOMMENDATION:

The Ordinance is presented for your consideration.

REASONS:

In the past, the City has provided payment extensions for fees owed for purchases of Transfer of Development Rights ("TDRs") and Bonus Units. The purpose of the attached Ordinance is to codify the practice of providing the extension. Under the proposed Ordinance, the City Commission may approve an extended payment plan upon the recommendation of the Finance Director of the City. Any extended payment plan is subject to interest payment.

ATTACHMENTS:

1. Ordinance
2. Notice of Public Hearing Miami Herald
ORDINANCE NO. 2012-_____ 

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING SECTIONS 265-23 AND 265-25 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE FOR EXTENSION OF PAYMENTS FOR DEVELOPMENT RIGHTS PURCHASED UNDER THE TRANSFER OF DEVELOPMENT RIGHTS (”TDRs”) AND BONUS PROGRAMS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the City wishes to provide payment extension for purchasers of development rights purchased under the TDRs and Bonus Programs; and

WHEREAS, the City Commission wishes to provide for extension of payments for purchased of TDRs and density Bonuses where the City’s Finance Director has determined that such extension is beneficial to the City.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part by this Ordinance upon adoption hereof.

Section 2. Amendment. Section 265-23 of the City Code is amended to read as follows:

§ 265-23. G. Establishment of TDR Bank; limitations.

…

(1) TDR Bank. The City Commission may by Resolution adopt procedures for the establishment of a TDR Bank which shall be maintained and operated by the City Manager or designee, for the deposit and withdrawal//purchase by private developers of development rights and shall be retroactive to all TDR transactions.

…

(d) The City Commission may extend payments due for purchase of TDRs upon the recommendation of the City’s Finance Director provided that the payment extension does not negatively impact the financial standing of the City and such extension is beneficial to the City. Any payment extension shall be subject to approval by the City Commission. The term of an extension and interest rate shall be recommended to the City Commission by the Finance Director or designee.

Section 3. Amendment. Section 265-25 of the City Code is hereby amended to read as follows:

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... 

H. Extension of Bonus Payments. The City Commission may extend payments due for purchase of bonus units upon recommendation of the City’s Finance Director provided that the payment extension does not negatively impact the financial standing of the City and such extension is beneficial to the City. Any payment extension shall be subject to approval by the City Commission. The term of an extension and interest rate shall be recommended to the City Commission by the Finance Director or designee.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Repeal of Conflicting Provisions. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 6. Inclusion In The Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Sunny Isles Beach Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 7. Effective Date. This Ordinance shall become effective upon adoption on second reading.

PASSED and ADOPTED on First Reading the ___ day of _____________, 2012.

PASSED and ADOPTED on Second Reading this ___ day of _____________, 2012.

_____________________________
Norman S. Edelcup, Mayor

ATTEST:

_____________________________
Jane A. Hines, CMC, City Clerk
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Hans Ottinot, City Attorney

Moved by: ___________________________
Second by: ___________________________

VOTE AS FOLLOWS:

Mayor Edelcup (___) yes (___) no
Vice Mayor Thaler (___) yes (___) no
Commissioner Aelion (___) yes (___) no
Commissioner Gatto (___) yes (___) no
Commissioner Scholl (___) yes (___) no
CITY OF SUNNY ISLES BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Commission of the City of Sunny Isles Beach, Florida, will hold a public hearing in the Sunny Isles Beach Government Center, 18070 Collins Avenue, Sunny Isles Beach, Florida, on Thursday, July 19, 2012, at 6:30 p.m., to consider final adoption of the following proposed Ordinance:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH AMENDING SECTIONS 265-23 AND 265-25 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE FOR EXTENSION OF PAYMENTS FOR DEVELOPMENT RIGHTS PURCHASED UNDER THE TRANSFER OF DEVELOPMENT RIGHTS (TDRs) AND BONUS PROGRAMS; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

Inquiries regarding this item may be directed to the City Clerk at 305-792-1703. A copy of this document is available for public inspection during normal business hours in City Hall.

Jane A. Hines, CMC, City Clerk

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Commission c/o the City Clerk, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, Florida, 33160. Any person wishing to address the City Commission at a public hearing is asked to register with the City Clerk by completing a public speakers’ card prior to the item being heard. The hearing on these matters may be continued at this meeting and under such circumstances, additional legal notice would not be provided. If a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the City Manager at 305-947-0606, no later than 48 hours prior to the proceedings; if hearing impaired, please telephone the TTY line at 305-792-1590 for assistance.

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Commission c/o the City Clerk, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, Florida, 33160. Any person wishing to address the City Commission at a public hearing is asked to register with the City Clerk by completing a public speakers’ card prior to the item being heard. The hearing on these matters may be continued at this meeting and under such circumstances, additional legal notice would not be provided. If a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

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