



**Town of Surfside
Special Town Commission Meeting**

**AGENDA
May 14, 2020
7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

- A. Call to Order**
- B. Roll Call of Members**

2. Discussion Items

- A. Proposed Charter Amendment - Mayor Charles W. Burkett**
- B. Comparison of Code 2006 to 2020 – Guillermo Olmedillo, Town Manager**
- C. 2006 Zoning Code (Ch. 90) 08/28/2006.**
- D. Comparative Table of Zoning Ordinances Adopted from 8/28/2006 to 05/13/2008.**
- E. Ordinance No. 08-1491 (May 13, 2008) Adopting New Chapter 90 Zoning Code and Adopting Official Town Zoning Map for all Districts, with adopted replacement of Ch. 90 attached as Exhibit “A” and Zoning Map.**
- F. Ordinance No. 10-1558 (August 10, 2010) Adopting New Chapter 90 Zoning Code and Adopting Official Town Zoning Map for all Districts (Re-adoption of 2008 Ordinance).**
- G. Comparative Table of Zoning Ordinances Adopted after 5/13/2008 to the present.**
- H. Zoning Map from 2006 and Future Land Use Map 1996.**

3. Public Comments

4. Adjournment

Respectfully submitted,

Guillermo Olmedillo
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, 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 SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT www.townofsurfsidefl.gov.

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



**Town of Surfside
Town Commission Meeting**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

DISCUSSION ITEM MEMORANDUM

Agenda #: 2A

Date: May 14, 2020

From: Mayor Charles W. Burkett

Subject: Proposed Charter Amendment

On Tuesday, May 12, 2020, Surfside can take another bold step towards halting the over-development that was inflicted upon our Town by the former Mayor and most of his Commission allies over the last 10 years.

Your new Commission took the brave step at the last meeting to initiate the process to throw out the entire developer approved code now in use. It also voted to return Surfside to the 2004 code that was in place at the time 92% of residents voted to enshrine strict development restrictions into our Charter – Surfside’s version of the U.S.’s Constitution.

Over the last 10 years, starting in 2010, after I lost that election, Mr. Dietch and his allies went to work systematically changing the zoning laws, which allow builders free reign in the Collins / Harding district and elsewhere in our Town.

They even went so far as to gut our 2004 Charter amendment – the one designed to protect against the types of changes in the zoning code that Mr. Deitch and his allies would make in the zoning code over the last 10 years.

The next part of the story will get a little into the weeds, however it will show HOW, Mr. Dietch and his over-development allies, seized the power back from the residents to control development in Surfside by CHANGING the Charter.

In my opinion, what you’re going to read now is really the most shocking part of the entire scheme.

In a breath-takingly deceptive and dishonest move, Mr. Dietch and his over-development allies, put forward a ballot question titled “RESTRICTION ON DEVELOPMENT”.

Not only were the contents of the proposed ballot question NOT restrictive, they catastrophically eviscerated the protections that had been written into the document.

Residents were understandably completely hoodwinked by the flowery language in the question that appeared on the ballot.

For instance, ask yourself these questions after reading the ballot question (attached) over a few times:

- a) What part of the question/statement contains restrictions? Answer: none.
- b) What is being reinforced? Answer: nothing.
- c) What is being clarified? Answer: nothing, however there's a whole lot being changed.

If you're wondering - like I was, what any of the ballot language really means, you'd have to look to the next (2nd attachment) which was the actual 'before and after' language in our Charter.

The words with lines under them are additions by Dietch and Company, and the words with lines through them, conversely were removed by Dietch and Company.

You can now see that NONE of the changes were "reinforcements" or "clarifications."

The changes were simply – changes - put in place to give developers the zoning code they needed to begin to turn Surfside into Sunny Isles or Miami Beach.

For instance:

The term "units per acre" replaced the term "floor areas."
"Maximum allowable floor area ratios" were stricken.
"Building heights" were redefined and,
Language pointing to the amendment being approved by Surfside voters was stripped out.

Does any of the foregoing sound like MORE "restrictions on development", the title of the ballot question? It is not!

Or does it sound to you, like it sounds to me? – A fraud perpetrated on the voters of Surfside, grossly misleading them with a deceptive ballot question, so elected officials could accommodate their developer friends by undoing and rewriting our protective zoning code.

Thursday, we have a chance to begin to unwind all of the unsavory and manipulative actions that were taken by the former Mayor and his over-development allies and I hope you'll join us to make it happen.

I want to address those who will say, let's just fix the current code and not go back to the old code by saying, it's not possible.

The reason the “new” zoning code was voted in was because it was newly written from start to finish, top to bottom – and for a very specific reason which we all are now seeing around us.

In a nutshell, the old code allowed small buildings on small lots and big ones on big lots. It regulated uses in our small Town to areas that supported those uses. It limited heights, size & many other important metrics.

The Dietch and his over-development allies zoning code now in place, initially put forward in 2010, has allowed developers to build bigger, higher and denser and is now so riddled with goodies, added by Mr. Dietch and his over-development allies over the last 10 years, that it needs to be thrown out, just as our old code was.

Yes, our old code may need some updates and tweaks before it's perfect for 2020, and I'm very sure our new Commission is committed to supporting each one of those, but the point is, it's better to fix a code that was written and put into place by those who cared for and wanted to protect residents from over development, rather than to try to fix an entire code that was sanctioned and put into place by those whose objective it was to turn our Town into Sunny Isles or Miami Beach!

See you Tuesday, May 12th at 7pm.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Guillermo Olmedillo, Town Manager
Date: May 14, 2020
Subject: Comparison of 2006 code to 2020 code

The attached tables describe the differences in maximum height and lot coverage, minimum floor area, and maximum lot coverage, between the 2006 code and the 2020 code per zoning district. Other changes that apply generally to several zoning districts are listed below.

1. FEMA changed the Base Flood Elevation from eight feet to ten feet.
2. Minimum window openings, design features and wall plane elevation changes were added to all zoning districts in the current code.
3. Veterinary clinics were not allowed in 2006 and are currently permitted.
4. Synthetic turf was prohibited in 2006 and is now defined and allowed and not counted as open space.
5. Notices to neighbors of new single-family homes to be presented at the Planning and Zoning Board.
6. A carport required a special exception application to be presented to heard at a public hearing in 2006. Current code requires design review by the Planning and Zoning Board.
7. Landscape requirements for multifamily and hotel uses were added. The current code version's landscape ordinance is consistent with the Florida Friendly requirements.
8. The 2006 code does not allow hedges to be placed in the corner clearance area of single-family residences. The current version provides flexibility for the Town to determine if there are conflicts.
9. The 2006 code limits docks to 20 feet for Biscayne Bay, 10 feet for Indian Creek and 15 feet for Point Lake. Miami-Dade County Department of Environmental Resource Management (DERM) requires longer docks in certain situations due to sea grasses. The current code allows for a longer dock if documentation is provided from DERM requiring the increased dock.
10. No requirements on short term rentals in the 2006 code. Current code contains limitations on short term vacation rentals, which were instituted prior to the statewide preemption.
11. Current coded contains regulations consistent with the Federal Religious Land Use and Institutionalized Persons Act and allows this use in the business district on Harding as well as properties primarily located on the east side of Harding in the H30C zoning district.
12. No regulations for medical marijuana dispensaries in 2006. Current code allows dispensaries as a permitted use within Harding Avenue Business District, provided there is 850 feet between dispensaries.

Single family waterfront lots		RS-1 (2006 Code)	H30A (2020 Code)
Height	Principal Building	30 ft	30 ft
	Accessory	12 ft	12 ft
Height	Stories	2	2
	Base Flood Elevation	8 ft	10 ft
Lot	Lot Width (Min)	50 ft	50 ft
	Lot area / dwelling (Min)	8,000 sq ft	8,000 sq ft
Lot	Lot Coverage (Max)	40%	40%
	Minimum FI Area (Min)	2,500 sq ft	No minimum, changed to a maximum square footage for 2 nd floors
Setbacks (Min)	Primary	20 ft	20 ft
	Interior side	5 ft	5 ft
Setbacks (Min)	Interior side for lots over 50 ft in width	10% of frontage	10% of the frontage
	Second floor interior side setbacks	No additional setbacks required	An average of 5 – 10 additional feet depending on the size of the 2 nd story, not to exceed 80% of the first
Pervious Area (Min)	Rear	20 ft	20 ft
	Secondary (corner only)	10 ft	10 ft
Pervious Area (Min)		50% of front yard and 40% of rear yard to be landscaped.	35% minimum pervious area for total lot. 50% of front yard and 20% of rear yard to be landscaped.

Single family interior lots		RS-2 (2006 Code)	H30B (2020 Code)
Height	Principal Building	30 ft	30 ft
	Accessory	12 ft	12 ft
Height	Stories	2	2
	Base Flood Elevation	8 ft	10 ft
Lot	Lot Width (Min)	50 ft	50 ft
	Lot area / dwelling (Min)	5,600 sq ft	5,600 sq ft
Lot	Lot Coverage (Max)	40%	40%
	Minimum FI Area (Min)	1,800 sq ft	No minimum, changed to a maximum square footage for 2 nd floors
Setbacks (Min)	Primary	20 ft	20 ft
	Interior side	5 ft	5 ft
Setbacks (Min)	Interior side for lots over 50 ft in width	10% of frontage	10% of the frontage
	Second floor interior side setbacks	No additional setbacks required	An average of 5 – 10 additional feet depending on the size of the 2 nd story, not to exceed 80% of the first
Pervious Area (Min)	Rear	20 ft	20 ft
	Secondary (corner only)	10 ft	10 ft
Pervious Area (Min)		50% of front yard and 40% of rear yard to be landscaped.	35% minimum pervious area for total lot. 50% of front yard and 20% of rear yard to be landscaped.

		RD-1 (2006 Code)			H30C (2020 Code)
Determination	Single family	Two-family	Multi-Family	Zoning District	
Page 6 Height (Max)	Principal Building	30 ft	30 ft	30 ft	
	Accessory	12 ft	12 ft	12 ft	
Lot	Stories	2	2	2	
	Lot Width (Min)	50 ft	50 ft	50 ft	
	Lot area / dwelling (Min)	5,000 sq ft	2,500 sq ft	2,000 sq ft	
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	
Setbacks (Min)	Minimum FI Area (Min)	1,800 sq ft	950 Sq ft	Based on use	
	Primary	20 ft	20 ft	20 ft	
	Interior side	5 ft	5 ft	6 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater	
Maximum frontage	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage	6 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater	
	Rear	20 ft	20 ft	10 ft	
Pervious Area (Min)	Secondary (corner only)	10 ft, 15 ft on east west lots	10 ft, 15 ft on east west lots	10 ft	
		100 feet with 25 foot recesses or 50 feet without recesses	100 feet with 25 foot recesses or 50 feet without recesses	90 feet subject to 3 conditions; and equivalency	
		50% of the front setback, 40% of rear setback	50% of the front setback, 40% of rear setback	20%	

		RM-1 (Old Code)		H40 (2020 Code)	
	Determination	Multi Family	Hotel & Motel	Width is ≤ 50 ft	Width is > 50 ft
Height (Max)	Principal Bldg	40 ft	40 ft	40 ft	40 ft
	Accessory	Not Specified	Not Specified	12 ft	12 ft
	Stories	3	3	1 and 2 family = 2 MF and Hotel = 3	1 and 2 family = 2 MF and Hotel = 3
Lot	Lot Width (Min)	75 ft	100 ft	50 ft	50 ft
	Lot area / dwelling (Min)	750 Sq ft	400 Sq ft	Not Specified	Not Specified
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	Not Specified
	Minimum FI Area (Min)	Based on use	Based on Use	Not Specified	Not Specified
Setbacks (Min)	Primary*	20ft	20 ft	20 ft; 25 ft for portions above 30 feet; except historic bldgs.	20 ft; 25 ft for portions above 30 feet; except historic bldgs.
	Interior side	7 ft	7 ft	6 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater	7 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage	6 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater	7 ft minimum or 10% of the total interior frontage up to 15 ft, whichever is greater
	Rear	10ft	20 ft	10 ft	10 ft
Maximum frontage	Secondary (corner only)	10ft	10 ft	10 ft	10 ft
		150ft with 25 foot recesses without recesses	150ft with 25 foot recesses or 75 feet	150 ft for hotels, 150 ft, or up to 250 ft with equivalent gaps of 17 ft in width for multi-family	
Pervious Area (Min)		50% of the front setback, 40% of rear setback	50% of the front setback, 40% of rear setback	50% of the front setback plus 20% of overall site	50% of the front setback plus 20% of overall site

*2006 code identified the "primary" front setback on a corner lot as the shorter of the two streets. This was modified in the current code to add that if the parcel is on Collins or Harding, that frontage becomes the primary front setback, regardless if the Collins or Harding portion of the lot is shorter. This to provide greater setbacks on Collins and Harding.

		RT-1 (2006 Code)		H120 (2020 Code)	
<u>Determination</u>		<u>Multi-Family</u>	<u>Hotel and Motel</u>	<u>Zoning District</u>	
Height (Max)	Principal Building	120 ft	120 ft	120 ft	
	Accessory	Not Specified	Not Specified	12 ft	
Lot	Stories	12	12	12	
	Lot Width (Min)	100 ft	150 ft	50 ft	
	Lot area / dwelling (Min)	400 Sq ft	Not Specified	Not Specified	
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	
Setbacks (Min)	Minimum FI Area (Min)	Based on use	Based on use	Based on use	
	Primary	40 ft	40 ft	40 ft	
	Interior side	10 ft, additional side setbacks when the building exceeds 30 feet in height.	10 ft, additional side setbacks when the building exceeds 30 feet in height.	10% of the frontage, no less than 10 feet, additional side setbacks when the building exceeds 30 feet in height.	
	Rear	30 ft	30 ft	30 ft	
	Secondary (corner only)	20 ft	20 ft	10% of the lot frontage, no less than 20 feet	
	Maximum frontage	150 ft	150 ft	150 ft	
Pervious Area (Min)	50% of the front setback	50% of the front setback	20%		

Chapter 90 ZONING*

***Cross references:** Buildings and building regulations, ch. 14; floods, ch. 42.

State law references: Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq.

Article I. In General

- Sec. 90-1. General rules of construction.
- Sec. 90-2. Definitions.
- Sec. 90-3. Penalty for violation.
- Sec. 90-4. Policy and objectives.
- Sec. 90-5. Interpretation, purpose, and conflict.
- Sec. 90-6. Compliance with regulations.
- Sec. 90-7. One building on a lot.
- Sec. 90-8. Minimum lot area.
- Sec. 90-9. Recorded restrictions.
- Sec. 90-10. Encroachment; reduction of lot area.
- Sec. 90-11. Accessory buildings, prior construction.
- Sec. 90-12. Buildings under construction.
- Sec. 90-13. Outstanding permits.
- Sec. 90-14. Relationship to the comprehensive plan.
- Sec. 90-15. Projections into required yard areas.
- Sec. 90-16. Provision for storm drainage.
- Secs. 90-17--90-35. Reserved.

Article II. Administration and Enforcement**Division 1. Generally**

- Sec. 90-36. Comprehensive plan.
- Sec. 90-37. Permits, plats and filing fees.
- Sec. 90-38. Site plan.
- Sec. 90-39. Certificate of occupancy.
- Sec. 90-40. Changes and amendments.
- Sec. 90-41. Conditional uses.
- Secs. 90-42--90-50. Reserved.

Division 2. Planning and Zoning Board

- Sec. 90-51. Created.
- Sec. 90-52. Membership; terms of officers; vacancies; meetings; quorum.
- Sec. 90-53. Officers.
- Sec. 90-54. Recommendations.
- Sec. 90-55. Reserved.
- Sec. 90-56. Expenditures; indebtedness.
- Sec. 90-57. General regulations governing members.
- Sec. 90-58. Applications for zoning changes; rules of procedure.
- Sec. 90-59. Review of building permits.
- Sec. 90-60. Special meeting or special public hearing.
- Secs. 90-61--90-70. Reserved.

Division 3. Nonconforming Uses, Lots and Structures

- Sec. 90-71. Nonconforming lots.
- Sec. 90-72. Nonconforming use of land.
- Sec. 90-73. Nonconforming use of buildings.
- Sec. 90-74. Discontinuance of nonconforming uses.
- Sec. 90-74.1. Discontinuance of nonconforming structure.
- Sec. 90-75. Destruction of a nonconforming use.
- Sec. 90-76. Existence of nonconforming use.
- Sec. 90-77. Buildings nonconforming in height, area or bulk.
- Sec. 90-78. Nonconforming uses not validated.
- Secs. 90-79--90-90. Reserved.

Division 4. Special Exceptions, Special Use Permits and Variances

- Sec. 90-91. Variances.
- Sec. 90-92. Special exceptions.

Sec. 90-93. Lapse of special exception or variance.

Sec. 90-94. Special use permits.

Secs. 90-95–9-99. Reserved.

Division 5. Proposed Amendments

Sec. 90-100. Proposed land development regulation amendments and proposed comprehensive plan amendments; application of equitable estoppel to permits and approvals.

Secs. 90-101–90-120. Reserved.

Article III. Zoning Districts Established; Zoning Map

Sec. 90-121. Districts established.

Sec. 90-122. Identification of district maps.

Sec. 90-123. Interpretation of district boundaries.

Secs. 90-124–90-144. Reserved.

Article IV. District Regulations

Sec. 90-145. RS single-family residential district.

Sec. 90-146. RS-1 and RS-2 single-family residential districts.

Sec. 90-147. RD-1 two-family residential district.

Sec. 90-148. RD-2 two-story multiple family residential district.

Sec. 90-149. RM-1 multiple-family residential district.

Sec. 90-150. Reserved.

Sec. 90-151. RT-1 tourist district.

Sec. 90-152. B-1 business district.

Sec. 90-153. NCS-O neighborhood commercial services overlay district.

Sec. 90-154. MU municipal use district.

Sec. 90-155. District regulations tables.

Secs. 90-156–90-175. Reserved.

Article V. Supplementary Regulations

Division 1. Generally

Sec. 90-176. Modifications of height regulations.

Sec. 90-177. Yards generally, allowable projections.

Sec. 90-178. Modification of front yard regulations.

Sec. 90-179. Modification of side and rear yard regulations.

Sec. 90-180. Maximum frontage and depth of buildings.

Sec. 90-181. Vision clearance.

Sec. 90-182. Accessory buildings and structures.

Sec. 90-183. Fences, walls and hedges.

Sec. 90-184. Marine structures.

Sec. 90-185. Carport canopies.

Sec. 90-186. Outdoor receiving and broadcasting antennae.

Sec. 90-187. Construction adjacent to bulkhead lines.

Sec. 90-188. Paving front yards in single-family and two-family districts.

Sec. 90-189. Outdoor lighting.

Sec. 90-190. Miscellaneous elevations for seawalls, and groins.

Sec. 90-191. Combined lots.

Sec. 90-192. Boat storage.

Sec. 90-193. Temporary storage of campers and house trailers.

Sec. 90-194. Landscaping requirements.

Sec. 90-195. Prohibited plants, trees, weeds, shrubs and vegetation.

Secs. 90-196–90-205. Reserved.

Division 2. Signs

Sec. 90-206. General and miscellaneous provisions.

Sec. 90-207. Prohibited signs.

Sec. 90-208. Temporary signs.

Sec. 90-209. Signs permitted within specific districts.

Sec. 90-210. Sign construction and illumination.

Sec. 90-211. Nonconforming signs.

Sec. 90-212. Sign permits.

Secs. 90-213–90-225. Reserved.

Division 3. Off-Street Parking

Sec. 90-226. Off-street parking requirements.

Sec. 90-227. Interpretation of these requirements.

Sec. 90-228. Restricted and prohibited parking.

Sec. 90-229. Joint use and off-site facilities.

Sec. 90-230. Design standards.

Secs. 90-231–90-240. Reserved.

Division 4. Off-Street Loading

Sec. 90-241. Off-street loading requirements.

Sec. 90-242. Interpretation of the chart.

Sec. 90-243. Design standards.

ARTICLE I. IN GENERAL**Sec. 90-1. General rules of construction.**

The following general rules of construction shall apply to the regulations contained in this chapter:

- (1) The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
- (2) Words used in the present tense include the past and future tenses, and the future the present.
- (3) The word "shall" is always mandatory. The word "may" is permissive.
- (4) The words "building" or "structure" are synonymous or interchangeable and include any part thereof.
- (5) The word "lot" includes the word "plot" or "parcel" or "tract" or "site."
- (6) The words "used" or "occupied" include the words "intended," "designed" or "arranged" to be used or occupied.
- (7) The words "required yards" or "minimum required yards" and "minimum yards" include the word "setback."
- (8) Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

(Code 1960, § 18-2)

Sec. 90-2. Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

- (1) *Accessory building* means a detached subordinate building or a portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purposes of the height, area and bulk regulations.
- (2) *Accessory use* means a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building use.
- (3) *Alley* means a public or private thoroughfare which affords only a secondary means of access to abutting property.
 - a. *Established alley*. One which remains under private ownership with the incidence and responsibility of maintenance, payment of ad valorem taxes, and liability for tort; but, without the right of improvements thereon other than paving.
 - b. *Dedicated alley*. One which is used generally by the public and dedicated by deed or platting to such public use. It is not subject to ad valorem taxation; and, it is maintained by the town, Metropolitan Dade County, or by the state.

- (4) *Apartment* means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by one family and containing independent cooking and sleeping facilities. (This term shall include a condominium.) The existence of cooking facilities within a room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an apartment.
- (5) *Reserved.*
- (6) *Awning* means a detachable, rooflike cloth cover, supported from the walls of a building for protection from the sun or weather.
- (7) *Bar* means a public establishment licensed by the state which is devoted to the selling or the dispensing and drinking of alcoholic beverages on the premises.
- (8) *Basement* means that portion of a building between floor and ceiling which has at least one-half of its height below the grade of the street on which it fronts. The height of a basement above grade shall not exceed one-half of the average height of a story in the building.
- (9) *Breezeway* means a covered passageway or space between the main building and an accessory building, open on two sides and the roof of which is structurally integrated with the buildings it separates.
- (10) *Building* means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.
- (11) *Building area* means the area within the confines of the exterior walls of the main building, accessory buildings, covered porches and terraces.
- (12) *Building, completely enclosed,* means a building having no outside openings, other than doors, windows, and ventilators.
- (13) *Building, height of,* means the vertical distance from the grade to the highest point of the structure.
- (14) *Building, main,* means a building in which the principal use of the lot on which it is located is conducted, or is intended to be conducted.
- (15) *Bulk* is a term used in these regulations to describe the size (and shape) of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.
- (16) *Cabana* means a permanent or portable bath cabin on the exterior of a residence, hotel or apartment house, together with only such accessories as wood slat walks or decks, terraces, rubbing rooms and toilet facilities, but not intended for sleeping or living quarters. Cabanas erected on the exterior may be of pipe frame and canvas, wood frame and masonite and be constructed in such a manner that they are portable and easily dismantled in the event of a hurricane. Cabanas of any other type shall be built of masonry. Cabanas shall be permitted only in conjunction with an outdoor swimming pool.
- (17) *Canopy* means a detachable, rooflike cover, made of cloth, metal, plastic or other permanent material supported from the ground or deck or floor of a building, and from the walls of a building for protection from sun or weather.
- (18) *Carport* means a roofed and usually wall-less shed projecting from the side of a building, used as a shelter for automobiles.
- (19) *Clinic* means an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals.

(20) *Club, private*, means a building and facilities or premises, owned and operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. A private club may include the normal accessory uses such as tennis courts, cabanas and parking spaces.

(21) *Conditional use* means any use listed in section 90-41 as a conditional use which would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

(22) *District* means any section of the town within which the zoning regulations are uniform. (See district map.)

(23) *Dwelling* means a building or portion thereof, designed or used exclusively for residential occupancy.

(24) *Dwelling, single-family*, means a building designed for or occupied exclusively by one family.

(25) *Dwelling, two-family (duplex)*, means a building designed for or occupied exclusively by two families.

(26) *Dwelling, multiple-family*, means a building designed for or occupied by three or more families.

(27) *Dwelling unit* means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family.

(28) *Family* means an individual or two or more persons related by blood or marriage or a group of not more than three unrelated persons (excluding servants) living together as a single housekeeping unit in a dwelling.

(29) *Fence* means a structure forming a physical barrier which is so constructed that no less than 50 percent of the vertical surface is open to permit the transmission of light, air and vision through such surface in a horizontal plane.

(30) *Filling station* means any building, structure, or land used for the sale at retail of motor vehicles fuels, oils, or accessories, or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting, and excluding public garages.

(31) *Floor area* means the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two attached buildings.

a. In particular, floor area includes:

1. Basement space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
2. Elevator shafts or stairwells at each floor.
3. Floor space used for mechanical equipment.
4. Floor space in penthouses.
5. Attic floor space (whether or not a floor has been laid) providing structural headroom of seven feet six inches or more.
6. Floor space in interior balconies or interior mezzanines.

7. Floor space in porches and pools enclosed with plastic, glass or permanent type of material.

8. Any floor space used for residential use, no matter where located within the building.

b. However, the floor area of a building shall not include:

1. Basement space when used for parking of vehicles.
2. Accessory water tanks or cooling towers.
3. Uncovered steps and exterior balconies.
4. Terraces, patios, breezeways, or open porches.

(32) *Floor area ratio* means the floor area of a building or buildings on any lot divided by the area of the lot.

(33) *Frontage, street*, means the distance along a street line from one intersecting street to another or from one intersecting street to the end of a dead-end street.

(34) *Frontage, lot*, means the distance for which the front lot line and street line are coincident.

(35) *Garage, parking*, means a building or portion thereof designed or used for the temporary storage of motor-driven vehicles.

(36) *Garage, private*, means an accessory building, not exceeding 900 square feet in floor area, designed or used for the storage of not more than four automobiles.

(37) *Grade* means the average datum or elevation of the crown of the pavement upon the street serving the lot or building site.

(38) *Helistop* means an area of land, water or structure or portion thereof used or intended to be used for the landing and takeoff of helicopters providing no facilities for service or basing of such aircraft are permitted.

(39) *Hotel* means a building in which lodging is provided and offered, including all utilities and housekeeping services, to the general public for compensation, with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside lobby supervised by a person in charge at all times.

a. *Hotel room* includes motel room and means a room or group of rooms in a hotel intended for rental to transients and not intended for use or used as a permanent dwelling. Each hotel room shall have a private bath attached thereto, but no cooking facilities therein. The existence of separate utility meters serving any room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an apartment.

(40) *Indian Creek bulkhead line* means the bulkhead line as defined in section 14-101.

(41) *Loading space* means a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks.

(42) *Lot* means a parcel of land occupied or which may be hereafter occupied by a building and its accessory buildings, together with such open spaces and parking spaces or area as are required under this article and having its principal frontage upon an officially approved street or place.

(43) *Lot area* means the total horizontal area within the lot lines of the lot. In determining usable lot area in the RT-1 district, it shall be from the west lot line to the

bulkhead line and the north lot line shall be the north boundary and the south lot line shall be the south boundary.

(44) *Lot, corner*, means a lot abutting upon two or more streets at their intersection.

(45) *Lot coverage* means the percentage of the total area of a lot that, when viewed from above, would be covered by all principal and accessory buildings and structures, or portions thereof; provided however that allowable encroachments, as described under "floor area," shall not be included in determining the building area.

(46) *Lot, depth of*, means the average horizontal distance between the front and rear lot lines, except where a lot rears upon the ocean, Indian Creek or other established waterway; then the depth of the lot shall be the average horizontal distance between the front lot line and the established bulkhead line along the waterway.

(47) *Lot, front*, shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street unless otherwise determined by the town manager.

(48) *Lot, interior*, means a lot other than a corner lot.

(49) *Lot of record* means a lot which is part of a subdivision, the map of which has been recorded in the office of the clerk of the circuit court of the county; or a parcel of land which became legally established and defined by a deed or act of sale.

(50) *Lot, through (double-frontage)*, means a lot having a frontage on two parallel or approximately parallel streets or places.

(51) *Lot width* means the horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line, or measured at the street line if no front yard is required.

(52) *Motel or motor inn* means a building in which lodging is provided and offered to the public, including all utilities and housekeeping services, for compensation. As such, it is the same as a hotel, except that the building is usually designed to serve transients travelling by automobile and parking is usually adjacent to the room. Ingress and egress to rooms need not be made through an inside lobby, but there shall be an office supervised by a person in charge at all times. A motel shall be located only upon lots, tracts or parcels, in common ownership, having a continuous width of not less than 100 feet. No motel shall contain a bar or cocktail lounge or any facilities for providing services or selling commodities; however, a motel may contain a coffee shop/dining room for use solely by guests of the motel.

(53) *Nonconforming lot* means a lot which had a separate existence prior to the enactment of these zoning regulations, or any amendment thereto, which requires a larger area, frontage, width or depth than that which existed prior to such enactment.

(54) *Nonconforming structure* means a structure which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the restrictions as to size, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings required by the regulations adopted subsequent to its construction, and which is continuously maintained after the effective date of such regulations or amendment thereto.

(55) *Nonconforming use* means a use of land and/or buildings which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the use restrictions applicable to the district in which it is situated, and which is continuously maintained after the effective date of such regulations or amendment thereto.

(56) *Ocean bulkhead line* means that bulkhead line as defined in section 14-86.

- (57) *Parking lot* means an open, unoccupied area of land used or required for use for parking automobiles exclusively and in which no gasoline, oil, services, washracks or accessories are sold or no other business conducted.
- (58) *Parking space, off-street*, means a paved area not in the street or alley and having an area of not less than nine feet by 20 feet, exclusive of driveways, permanently reserved for the temporary storage of one vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.
- (59) *Regulations* means the whole body of regulations, text, charts, tables, diagrams, maps, notations, references and symbols, contained or referred to in this chapter.
- (60) *Restaurant* means an establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises and every establishment preparing food to be called for, delivered to or taken out by customers.
- (61) *Servant's quarters* means living quarters within a portion of a main building or in an accessory building located on the same lot with the main building, used for servants employed on the premises and not rented as a separate dwelling.
- (62) *Setback* means the minimum distance required by section 90-155 that all structures shall be from front, side and rear lot lines.
- (63) *Show window or display window* means an area enclosed on one or more sides by glass, adjacent to the public right-of-way, for the purposes of displaying signs and merchandise to the public. Where transparent glass constitutes part of a front or side of a building adjacent to the public right-of-way, all areas within five feet of such glass shall constitute a show window.
- (64) *Sign* means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon land or a building or structure or object and which directs attention to a place, activity, product, person, institution, or business.
- (65) *Sign area* means that area within a line, including the outer extremities of letters, symbols, trademarks, design, figures, illustrations or ornamentations, or within a line including the outer extremities of the framework or related background area on which any such characters, letters, symbols, trademarks, design, figures, illustrations, or ornamentations are supported or applied, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or a part thereof, shall not be included in the sign area. Only one side of a double-faced sign shall be included in a computation of sign area.
- (66) *Sign, awning* means any sign painted, stamped, perforated or stitched on an awning, canopy, roller curtain or umbrella.
- (67) *Sign, banner*, means any sign having characters, letters, illustrations or ornamentations applied to cloth, paper or fabric.
- (68) *Sign, construction*, means a temporary sign which is located at a construction site and which lists the name of the project, developer, architect, engineer, contractor, subcontractor and sales information.
- (69) *Sign, detached*, means a sign affixed to the ground, no part of which is attached to or on a building. A sign attached to a flat surface such as a fence or wall not part of the building shall be considered a detached sign.
- (70) *Sign, double-faced*, means a sign with two parallel, or nearly parallel faces, back-to-back and located not more than 24 inches from each other.

- (71) *Sign, flashing*, means an illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign for the purpose of these regulations.
- (72) *Sign, flat*, means any sign attached to, and erected parallel to the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall.
- (73) *Sign, illuminated*, means any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.
- (74) *Sign, pole*, means a sign supported by one or more poles and which is wholly or partially independent of a building. Pole shall include post, column, pyramid or other extension from ground level, regardless of the material from which made.
- (75) *Sign, pylon*, means a freestanding sign permanently affixed to the ground without the need of posts and/or poles, with a maximum overall height not to exceed five feet above grade.
- (76) *Sign, roof*, means any sign which is fastened to or supported by or on the roof of a building. "Roof sign" shall include any which projects above the roofline or parapet wall of a building.
- (77) *Site plan* means a drawing illustrating a proposed development of a lot or tract, in accordance with the specifications and requirements set forth in section 90-38.
- (78) *Story* means that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor next above it, then the space between such floor and ceiling next above it.
- (79) *Street* means a public thoroughfare which affords the principal means of access to abutting property.
- (80) *Streetline* means a dividing line between a lot and the adjacent street.
- (81) *Structure* means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing, signs, backstop for tennis courts, swimming pools, fences, screen enclosures, and pergolas.
- (82) *Structural alterations* means any change that would change the shape or size of any portion of the exterior of the building or structure, including any work affecting the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders.
- (83) *Suite-hotel* means a hotel containing one or more suite-hotel rooms as defined below. A minimum of fifteen percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. The building shall not have open exterior walkways providing access to units. Provided that all conditions of this Code are met, a suite-hotel may be a timeshareproperty as defined in F.S. ch. 721.
- a. *Suite-hotel room* means a hotel room in a suite-hotel and containing not less than 525 square feet of net useable interior space. A suite-hotel room may contain cooking facilities.

None of the above provisions shall be subject to waiver, variance or exception in any circumstances.

(84) *Suite-motel* means a motel containing one or more suite-motel rooms as defined below. A minimum of ten percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. Provided that all conditions of this Code are met, a suite-motel may be a timeshare property as defined in F.S. ch. 721.

a. *Suite-motel room* means a motel room in a suite motel and containing not less than 525 square feet of net useable interior space. A suite-motel room may contain cooking facilities.

None of the above provisions shall be subject to waiver, variance or exception in any circumstances.

(85) *Swimming pool* means any permanent structure containing a body of water intended for recreational purposes, including a wading pool.

(86) *Transient* means any person who exercises occupancy or is entitled to exercise occupancy of any structure or part thereof by reason of renting, leasing, letting or granting a license for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days.

(87) *Use* means any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity or operation carried on or intended to be carried on in a building or other structure or on land.

(88) *Wall*. A wall, when used as a fence, shall be so constructed that no less than 50 percent of the vertical surface is open to permit the transmission of light, air and vision through such surface in a horizontal plane.

(89) *Yard* means an open area which is on the same lot as a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

(90) *Yard, front*, means a yard across the full width of the lot extending from the front line of the building to the front street line of the lot.

(91) *Yard, rear*, means a yard extending the full width of the lot between the main building and the rear lot line.

(92) *Yard, side*, means a yard on the same lot with the building between the main building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

(Code 1960, § 18-3; Ord. No. 1400, § 2, 3, 5-11-99; Ord. No. 1402, § 1, 5-11-99; Ord. No. 1404, § 1, 6-8-99; Ord. No. 1446, § 2, 12-9-03)

Cross references: Definitions generally, § 1-2.

Sec. 90-3. Penalty for violation.

Any person who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted under this chapter, shall, upon conviction, be punished by a fine not to exceed \$1,000.00 or by imprisonment in the discretion of the judge. Each day a violation is permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation hereof shall be placed or shall exist, and any architect, builder, contractor, agent, or person employed in connection therewith and who has assisted in the commission

of any such violation shall be guilty of a separate offense and upon conviction thereof shall be fined as hereinbefore provided.

(Code 1960, § 18-81)

Sec. 90-4. Policy and objectives.

The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, morals, health, order, convenience, prosperity, and general welfare of the citizens of the town and of the citizens of Metropolitan Dade County, Florida, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the civic amenities of beauty and visual interest, and for development in accord with the comprehensive plan by establishing zoning districts and by regulating the location and use of buildings, structures, and land for trade and residence, by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces and the density of same. To accomplish these objectives, the regulations and districts and accompanying map have been designed with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses.

(Code 1960, § 18-1)

Sec. 90-5. Interpretation, purpose, and conflict.

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreement, provided however, that where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger openspaces or yards or lot areas than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of these regulations shall govern.

(Code 1960, § 18-80)

Sec. 90-6. Compliance with regulations.

Except as hereinafter provided:

- (1) No land or water area may be used except for a purpose permitted in the district in which it is located. Such permitted uses shall include those specifically listed as an accessory use, conditional use or use permitted subject to the approval of a special use permit within the district in which the building or land is located. Any use not specifically listed as provided herein shall be prohibited.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.
- (4) No building shall be erected, converted, enlarged, reconstructed, moved, or

structurally altered except in conformity with the area regulations of the district in which the building is located.

(5) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.

(6) No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area regulations of the district in which it is located.

(7) No building shall be erected or moved except in conformity with the established flood criteria, as indicated on the most current edition of the federal flood insurance rate maps and in chapter 42, article II, applicable to the lot on which the building is located.

(8) No building shall be erected or enlarged after the effective date of these regulations, which reduces any level of service standard established in the town's adopted comprehensive plan.

(9) All improved properties shall have their street number displayed and clearly visible from the street on which the front entrance of the building faces. In the B-1 district, all properties additionally shall have their street numbers displayed and clearly visible from the rear of the property.

(Code 1960, § 18-7; Ord. No. 1280, § 1, 5-12-92)

Sec. 90-7. One building on a lot.

Except as provided in section 90-150 of these regulations with regard to the RMO-1 district, only one main building and the accessory buildings and uses customarily incident thereto shall be located on any single lot. In the case of single-family dwellings, no individual room shall be completely separated from the remainder of the main building and only one kitchen shall be provided on each lot.

(Code 1960, § 18-8)

Sec. 90-8. Minimum lot area.

No lot area shall be reduced or diminished so as to violate the setback or lot coverage requirements as herein prescribed, nor shall the minimum lot area per dwelling unit as established in section 90-155, table I, be decreased in any manner except in conformity with the regulations established herein.

(Code 1960, § 18-9)

Sec. 90-9. Recorded restrictions.

Any existing recorded restrictions regarding any lot shall be considered a part of this chapter, except where such restrictions are in actual conflict with the provisions of this chapter, in which case this chapter shall control.

(Code 1960, § 18-10)

Sec. 90-10. Encroachment; reduction of lot area.

The minimum yard, parking space, open space and minimum lot area per dwelling unit requirements of these regulations for each and every building existing at the time of passage of the ordinance from which these regulations were derived, or for any building hereafter erected, shall not be encroached upon or considered as required yard, parking space or open space for any other building, except as hereinafter provided, nor shall any lot area be reduced below the requirements of these regulations.

(Code 1960, § 18-11)

Sec. 90-11. Accessory buildings, prior construction.

No accessory building shall be constructed upon a lot until the construction of a main building has been actually completed, except where construction of main and accessory buildings is concurrent. No accessory building shall be used unless the main building on the lot is also being used.

(Code 1960, § 18-12)

Sec. 90-12. Buildings under construction.

Any building or structure for which a lawful building permit has been issued, and the construction of which has been started prior to the effective date of the ordinance from which this chapter was derived may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided such construction is completed within one year after the effective date of the ordinance from which this chapter was derived.

(Code 1960, § 18-13)

Sec. 90-13. Outstanding permits.

(a) Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid building permits, authorizing the construction of buildings, structures, additions or alterations, the use or construction of which do not conform to the requirements of this chapter, such permits shall be void unless actual construction work, excluding grading or excavating, is substantially underway on that date.

(b) Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid permits, authorizing the use of land or buildings without construction work, and where such use is not permissible under the terms of this chapter, such permit shall be void unless the use is actually in operation on that date.

(Code 1960, § 18-14)

Sec. 90-14. Relationship to the comprehensive plan.

All regulations contained in this chapter and the maps attached thereto shall be amended, supplemented or changed only in compliance with F.S. ch. 163 as pertains to comprehensive planning activities.

(Code 1960, § 18-15)

Sec. 90-15. Projections into required yard areas.

In determining compliance with the minimum setback requirements established within these regulations, the controlling distance on each lot shall be measured between the applicable lot line and the closest point thereto on any building or structure erected on the lot, and no portion of any roof overhang, chimney, cornice, or other similar architectural feature shall project into any required front, side or rear yard, except as provided in section 90-177.

(Code 1960, § 18-16)

Sec. 90-16. Provision for storm drainage.

No structure shall be constructed or enlarged unless it meets all requirements of chapter 34 regarding storm drainage management. Such requirements shall apply to all accessory buildings or structures or uses serving such structures.

(Code 1960, § 18-17)

Secs. 90-17--90-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT**DIVISION 1. GENERALLY****Sec. 90-36. Comprehensive plan.**

- (a) The comprehensive plan, as amended, and made in accordance with F.S. ch. 163, and the various maps referred to therein, is hereby adopted as the official comprehensive plan of the town.
- (b) All development undertaken by and all actions taken in regard to development orders concerning land covered by the comprehensive plan shall be consistent with such plan. All land development regulations enacted or amended shall be consistent with the comprehensive plan.
- (c) Any future land development regulations, amendments to the comprehensive plan, land development code or amendment thereto shall be referred to the town planning and zoning board, acting in the capacity of the local planning agency, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan. Such recommendation shall be undertaken in accordance with the provisions of F.S. chs. 163 and 166. In all cases where a recommendation is not made within 60 days after referral, the town commission may act upon adoption without such recommendation.

(Code 1960, § 18-92)

State law references: Adoption and amendment of comprehensive plan, F.S. § 163.3184 et seq.; adoption of zoning or land development regulations, F.S. §§ 163.3194, 166.041.

Sec. 90-37. Permits, plats and filing fees.

- (a) *Permits.* No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a permit therefor from the town manager. Such permit shall require conformity with the provisions of these regulations. When issued, such permit shall be valid for a period of 180 days.
- (b) *Preliminary drawings, plot plans, etc.*
- (1) All applications for building permits shall be accompanied by drawings and plot plan, in triplicate, showing all dimensions of lot lines, location of all proposed buildings, all yard dimensions, existing and proposed yard grades and first floor elevations.
 - (2) A survey prepared by a licensed surveyor, showing all dimensions of the plot and dimensions of all existing structures and easements thereon and all existing grades on plot and crown of the road shall be submitted with all applications.
 - (3) The drawings shall contain suitable notations indicating the use of all land and buildings. A careful record of the original copy of such drawings, plats, survey and applications shall be kept in the offices of the town manager and a duplicate copy shall be kept at the building site at all times during construction.
 - (4) Submission of preliminary plans and survey, to the building official and the planning and zoning board, for compliance with this chapter may be filed. Applicant shall, with the filing of such request, pay a fee of \$200.00 to defray costs and expenses.

(c) *Applications for building permits.* Applications for building permits in RD-2, RM-1, RMO-1, RT-1 and CO-1 districts must be accompanied by the following:

- (1) A plot plan showing provisions for adequate drainage where required.
- (2) A rendering showing details of materials to be used on the exterior of the building.
- (3) A detailed landscaping plan, prepared by a registered landscape architect, including scale demonstrating actual size of plants to be used.

(Code 1960, § 18-77)

Sec. 90-38. Site plan.

(a) *Requirement for a site plan.* Where required by these regulations, a site plan shall be submitted to the town manager for transmittal to the appropriate town board and commission. Such site plan shall contain all information required by the town to determine compliance with the provisions of these regulations. Where required by other applicable laws, such site plan shall be prepared by an engineer or architect licensed to practice in the state.

(b) *Content of a site plan.* A site plan drawn at a scale of one inch equals 40 feet or such other scale as may be approved by the town manager shall be prepared that will include and show, where applicable, the following information:

- (1) All of the land in the lot, together with any adjacent or contiguous parcels in the same ownership, with such detail of adjacent properties and public ways as will relate the subject premises to the neighborhood and to the street pattern within 1,000 feet from the perimeter of the subject property. (Such information may be shown on a key map at a scale of one inch equals 1,000 feet.)
- (2) The location size and shape of all existing and proposed buildings and uses on the subject site and the approximate locations and size of all existing buildings and structures on the abutting properties which are within 100 feet of the common lot line.
- (3) In addition to the information required in subsections (a) and (b) of this section, the site plan shall also include the following information:
 - a. Location and size of all parking spaces, loading and unloading spaces, and of all existing and proposed driveway entrances and exits.
 - b. Existing and proposed grades if such are significantly altered.
 - c. Existing and proposed fences, walls, signs, architectural accents, street furniture and the locations and sizes of all advertising or graphic features.
 - d. Location of all utility poles, fire hydrants, parking meters on adjacent streets and the location, type and size of all outdoor lighting.
 - e. Existing and proposed landscaping, including any existing self-supporting perennial plant which has a trunk diameter of at least three inches, measured three feet above grade (at the base of the tree), and which normally grows to a minimum overall height of 15 feet. Proposed methods of irrigation shall also be shown.
 - f. Schematic building plans, including plans, elevations and sections of all major structures.
 - g. Tabulations of total gross square footage in the project and the percentages thereof proposed to be devoted to (i) the various permitted uses; and (ii) lot coverage by structures.

- h. Tabulation showing (i) the derivation of numbers of off-street parking and off-street loading spaces shown in subsection a. of this subsection; and (ii) total project density in dwelling units per acre.
- i. If common facilities (such as recreation areas or structures, common open space, etc.) are to be provided for the project, statements as to how such common facilities are to be provided and permanently maintained.
- j. Water, storm drainage and sanitary sewerage plans, including information showing the projected volume of usage or discharge proposed.
- k. Plans indicating size and location of all proposed signs.
- l. Plans for recreation facilities, if any, including location, size and shape of all buildings proposed for such use.
- m. Location of facilities being provided for trash and garbage, location of any outdoor fixed seating, and the location of all other accessory structures.
- n. Such additional data, maps, plans, or statements as the town may require to fully describe and evaluate the particular use or activity proposed.

The town manager shall have the right to waive submission of any of the items required herein if, in the town manager's opinion, such information is not required in order to render a decision on the site plan application as submitted.

(Code 1960, § 18-76)

Sec. 90-39. Certificate of occupancy.

- (a) No vacant land shall be occupied or used until a certificate of occupancy shall have been issued by the town building official.
- (b) No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied, or changed use until a certificate of occupancy and compliance shall have been issued by the town building official, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
- (c) Certificates of occupancy and compliance shall be applied for within ten days after the erection or structural alteration of such have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the town manager.

(Code 1960, § 18-78)

Sec. 90-40. Changes and amendments.

- (a) *Changes and amendments.* The town commission may, from time-to-time, amend, supplement, or change, by ordinance, the boundaries of the districts or the regulations herein established.
- (b) *Reconsideration of district boundary changes.* When a proposed change in district boundaries has been acted upon by the town commission and disapproved or failed of passage, such proposed change, in the same or substantial similar form, shall not be reconsidered by the town for a period of at least one year following the date of such action.
- (c) *Withdrawal of a petition.* Any petition for amendment, supplement, or change may be withdrawn by a request in writing from the petitioner at any time before a decision of the town

commission, but if withdrawn after advertisement for a public hearing or posting of the property, the same or a substantially similar petition covering the same property shall not be resubmitted, except by the town manager or a member of the town commission, sooner than one year after date established for the prior hearing. Filing fees shall not be refunded upon withdrawal.

(Code 1960, § 18-79)

State law references: Zoning amendments, F.S. §§ 163.3194, 166.041.

Sec. 90-41. Conditional uses.

(a) *Purpose.* The purpose of this section is to provide a process which is designed to determine if certain uses, hereafter referred to as conditional uses, should be permitted. Special review of conditional uses is required because such uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the community; but because of the nature of the use and possible impact on neighboring properties, require the exercise of planning judgment on location and site plan.

(b) *Conditional uses enumerated.* The following buildings, structures, and uses may be approved by the town commission as conditional uses in any district in which they are specifically allowed, as indicated within the provisions for individual zoning districts. Approval of such conditional use(s) in accordance with the procedures and standards of this section shall only be granted where it has been clearly shown that the public health, safety, morals, and general welfare will not be adversely affected; that adequate off-street parking facilities, in accordance with this chapter, will be provided; and that necessary safeguards will be provided for the protection of surrounding property:

- (1) Churches and synagogues.
- (2) Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.
- (3) Off-street parking lots and garages.
- (4) Public and governmental buildings.
- (5) Public utilities or public service uses, buildings, structures and appurtenances thereto.
- (6) A bar accessible from the pool or pool deck for use solely by guests of hotels and motels in the RT-1 tourist district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.

(c) *Site plan required.* Each application for approval for a conditional use shall be accompanied by a site plan. Such site plan shall be prepared in accordance with the provisions of section 90-38. In addition, each application shall be accompanied by a letter and survey indicating compliance with all of the provisions of section 90-38, and any additional information as may be required to permit a determination of the exact nature of the proposed use and its effect on surrounding properties, the adjacent neighborhood, and its consistency with the town's adopted comprehensive plan.

(d) *Procedures; conditional uses.* Applications for approval of a conditional use shall conform with the procedural requirements of section 90-94. The planning and zoning board's report to the town commission may contain recommendations regarding conditions which should be imposed by the town commission in approving the conditional use. The town commission may establish these and/or additional conditions for an approval by a simple majority vote.

Approval of a conditional use under this section shall lapse and/or be extended under the provisions of section 90-93.

(Code 1960, § 18-69; Ord. No. 1407, § 1, 1-11-00)

Secs. 90-42--90-50. Reserved.

DIVISION 2. PLANNING AND ZONING BOARD*

*Cross references: Boards, commissions and committees, § 2-46 et seq.

Sec. 90-51. Created.

There is created a town planning and zoning board.

(Code 1960, § 18-32)

Sec. 90-52. Membership; terms of officers; vacancies; meetings; quorum.

(a) The planning and zoning board shall consist of five members. The term of each appointment shall be for a period of two years. Each member of the commission shall be entitled to one appointment to the board, subject to the approval of a majority of the commission; any member of the commission shall have the right to replace his or her appointment for the unexpired term in the case of removal or vacancy, subject to the approval of a majority of the commission. Any member may be removed and replaced, with or without cause, by a majority vote of the town commission. Terms shall expire on the last Tuesday of March of the applicable year, except that applications for hearings filed before March 10th of the applicable year shall be heard by the then existing board.

(b) A vacancy shall exist on the date that any member ceases to possess any of the qualifications for membership established herein; and a vacancy shall exist when a member has been absent from three consecutive regularly convened meetings of the board, or has been absent from five regularly convened meetings of the board within a board year.

(c) The board year shall commence on the last Tuesday of April in each year. Regular meetings of the board shall be held on the last Tuesday of each month and three members present shall constitute a quorum; however, three affirmative votes shall be required to approve a request for a variance.

(d) One commissioner, appointed by the town commission, shall be a liaison, nonvoting representative; and, the town manager shall be an ex officio member without vote. Neither the commission representative nor the town manager may be counted in determining that a quorum is present.

(e) Meetings of the board may be held in the town hall or community center. Special meetings must be called by the chairman upon approval of a quorum. Records shall be kept of all proceedings.

(Code 1960, § 18-83)

Sec. 90-53. Officers.

One member shall be elected by the planning and zoning board as chairman, at its first regular meeting in April of each year. In addition, the board shall, at the same time, elect one of its members as vice-chairman. In the event of the resignation, removal, or inability of the chairman to serve, the vice-

chairman shall succeed to the position of chairman for the unexpired term; and the board shall, thereupon, elect one of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In his absence, the vice-chairman shall preside. The chairman shall submit to the town commission all reports and recommendations of the planning and zoning board. The town shall provide a secretary for the board and the town clerk shall be custodian of all records, books, and journals of the board.

(Code 1960, § 18-84; Ord. No. 1364, § 1, 6-11-96)

Sec. 90-54. Recommendations.

The planning and zoning board will submit its recommendations to the town commission, by and through the chairman or vice-chairman.

(Code 1960, § 18-85)

Sec. 90-55. Reserved.

Sec. 90-56. Expenditures; indebtedness.

The town commission may authorize the expenditure by the planning and zoning board of such funds as the commission may deem necessary to the performance of the requirements of this chapter. The town commission may appropriate from the general fund as set up in the annual budget and such sums as it may from time to time authorize the board to expend. The board may not incur indebtedness without prior commission approval.

(Code 1960, § 18-87)

Sec. 90-57. General regulations governing members.

Vacancies on the planning and zoning board shall be filled by appointment for the unexpired term in the same manner as original appointments are made. Appointed members of the board shall not, during their term, hold any other public office, paid position, or serve on any other board under the town government, except as a member of a temporary board, or that of a voluntary fireman. Membership on this board shall cease concurrently with the filing of a nominating petition for town commission.

(Code 1960, § 18-88)

Sec. 90-58. Applications for zoning changes; rules of procedure.

The following rules shall govern procedure on all applications for zoning changes, special use permits, conditional uses, and/or variances:

- (1) All applications shall be submitted to the planning and zoning board on the prescribed form and accompanied with the prescribed fee. The planning and zoning board shall be required to meet and hold a public hearing not later than 30 days after receipt of such zoning, special use permit or variance request. The board shall make its views and recommendations known to the town commission for the town commission's determination. If the board fails to take action within the prescribed time, the commission shall assume its duties.

(2) In the RS-1, RS-2 and RD-1 zoning districts, a fee of \$250.00 shall be paid for each application, with an additional fee of \$50.00 for any additional special use permit, conditional use or variance processed at the same time for the same property. For all other zoning districts, the fee shall be \$400.00, with an additional fee of \$50.00 for each additional special use permit, conditional use or variance processed at the same time for the same property. The fee for special use exceptions for canopy carports in all zoning districts shall be \$175.00.

(3) A public hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the town hall at least ten days prior to the public hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of 375 feet. Where practicable, such advertising shall contain, in addition to a legal description, a street address, together with the specific intended use in layman's language, i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "B-1" or "business zoning."

(4) A notice, 18 inches by 24 inches, shall be placed in a prominent place on the property by the applicant at his own expense denoting the following:

ZONING CHANGE REQUESTED

for use as

(here insert use)

Public Hearing at Town Hall 8:00 p.m.

Tuesday Date _____

(Yellow background/black letters)

Such notice to be posted not less than ten days prior to such hearing.

(5) A posted notice shall contain the requested use change in laymen's language as in subsection (3) of this section. Posted notice shall be of standard size in standard colors, approved by town manager before erection.

(6) All applications for rezoning must be made and presented by the fee title owner or owners of the property sought to be rezoned or by a tenant or attorney for the owner with the owner's written approval.

(7) Applications for variances, conditional uses and special use shall follow, substantially, the same procedure as applications for zoning changes.

(8) A copy of each variance, special use permit, conditional use or zoning change and ordinance affecting change in this chapter shall be sent to each member of the planning and zoning board by the town manager after the commission grants it. All variances granted by the town commission shall be kept in a journal kept for such purpose.

(Code 1960, § 18-89; Ord. No. 1252, §§ 1, 2, 5-14-91)

Sec. 90-59. Review of building permits.

(a) Prior to the issuance of building permits, all applications for new structures, additions or exterior changes which affect the exterior dimensions of any structure, together with any applicable detailed plans, specifications and plot plans, shall be submitted to the planning and zoning board for its review and recommendations. Except as to tool sheds provided for in section 90-182, building permits, where the proposed construction does not exceed the total value of \$1,000.00, need not be so submitted.

(b) To assure that the architectural design shall be in harmony with the architecture of the neighborhood, the planning and zoning board shall suggest such changes in the design of the

structure to preserve the traditional aesthetic treatment and excellence of design of the community. In considering the design of the building, the board shall consider and render a recommendation as to any element or facet of the design and location of the building.

(Code 1960, § 18-90)

Sec. 90-60. Special meeting or special public hearing.

In the event, upon the request of any applicant, the planning and zoning board should call a special meeting or special public hearing other than specifically required by this chapter, the applicant shall thereupon pay the sum of \$100.00 in order to help defray the costs and expenses of calling the special meeting or special public hearing. Nothing contained in this section shall obligate or require the planning and zoning board to call a special meeting or special public hearing except as may be provided in this chapter.

(Code 1960, § 18-91)

Secs. 90-61--90-70. Reserved.

DIVISION 3. NONCONFORMING USES, LOTS AND STRUCTURES**Sec. 90-71. Nonconforming lots.**

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the adoption of the ordinance from which this division was derived, or any amendment thereto which requires a larger minimum lot size than currently exists, the owner may use such lot for improvements that conform in all other respects to applicable zoning regulations. Any existing building which may be located on such a nonconforming lot may be altered or enlarged, provided such alteration or enlargement meets all other applicable requirements of these zoning regulations.

(Code 1960, § 18-61)

Sec. 90-72. Nonconforming use of land.

In a residential or tourist district where open land is being used as a nonconforming use, and such use is the main use and not accessory to the main use conducted in a building, such use shall be discontinued not later than two years from the date of passage of the ordinance from which this division was derived. During the two-year period, such nonconforming use shall not be extended or enlarged either on the same or adjoining property.

(Code 1960, § 18-62)

Sec. 90-73. Nonconforming use of buildings.

Except as otherwise provided herein, the lawful use of a building existing at the effective date of the ordinance from which this division was derived may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of passage of the ordinance from which this division was derived.

(Code 1960, § 18-63)

Sec. 90-74. Discontinuance of nonconforming uses.

No building or land, or portion thereof, used in whole or in part as a nonconforming use in any zoning district, which remains idle or unused for a continual period of six months, or for 18 months during any three-year period, irrespective of whether or not existing equipment or fixtures which contribute to the nonconformity are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

(Code 1960, § 18-64)

Sec. 90-74.1. Discontinuance of nonconforming structure.

(a) If, for any reason, the use of a nonconforming structure remains idle or unused for a continual period of six months or for 18 months during any three-year period, the nonconforming structure may not be used again for any use until it is made to conform with the regulations of the district in which such structure is located and with all of the provisions of the Town Code, including this chapter 90.

(b) This section 90-74.1 shall apply to all nonconforming structures, including those which became idle or in an unused condition prior to the adoption of this section 90-74.1.

(Ord. No. 1449, § 2, 1-13-04)

Sec. 90-75. Destruction of a nonconforming use.

No building which has been damaged by any cause whatever to the extent of more than 50 percent of the fair market value of the building immediately prior to damage shall be restored except in conformity with these regulations and all rights as a nonconforming use shall be terminated. If a building is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within 12 months of the date of such damage.

(Code 1960, § 18-65)

Sec. 90-76. Existence of nonconforming use.

In case of doubt, and on a specific question raised as to whether a nonconforming use exists, it shall be a question of fact and shall be decided by the town commission after public notice and hearing and in accordance with the rules of the commission.

(Code 1960, § 18-66)

Sec. 90-77. Buildings nonconforming in height, area or bulk.

A building nonconforming only as to height, area or floor area requirements may be altered or extended, provided such alteration or extension does not increase the degree of nonconformity in any respect.

(Code 1960, § 18-67)

Sec. 90-78. Nonconforming uses not validated.

A nonconforming use in violation of a provision of these regulations, or any provision which these regulations amend or replace shall not be validated by the adoption of these regulations.

(Code 1960, § 18-68)

Secs. 90-79--90-90. Reserved.

DIVISION 4. SPECIAL EXCEPTIONS, SPECIAL USE PERMITS AND VARIANCES**Sec. 90-91. Variances.**

(a) *Purpose, definition, scope and limitations.* A variance is a relaxation of the terms or provisions of the Code of the Town of Surfside (Town Code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Town Code would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for lot coverage, dimensions of yards, setbacks, other open spaces, building spacing, parking, or loading requirements.

(b) *Uses and height of structures not subject to variance.* A variance is authorized only as set out in subsection (a).

(1) Under no circumstances shall the town commission grant a variance that would allow a use of property that is not allowed within the zoning district under the Town of Surfside Comprehensive Plan and the Town Code.

(2) Under no circumstances shall the town commission grant a variance that would allow height of development and structures within the Town of Surfside that exceeds the maximum building heights that are set out in the Town of Surfside Comprehensive Plan or the Town Code, whichever provisions are more restrictive.

(c) *Nonconforming uses and structures not grounds for granting variance.* Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and permitted use of lands, structures or buildings in any other district, shall not be considered grounds for granting a variance.

(d) *Town manager not authorized to vary terms of section.* The town manager has no authority to relax the terms of this section. Authority to grant variances is lodged solely with the town commission.

(e) *Application requirements.* An application for a variance shall be filed by the owner of the property upon which the variance is requested or the owners designated representative. The following shall, at minimum, be required to support a variance application: Statements of ownership and control of the property, executed and sworn to by the owner or owners of 100 percent of the property described in the application, or by tenant or tenants with the owners' written, sworn consent, or by duly authorized agents evidenced by a written power of attorney if the agent is not a member of the Florida Bar. Only applications which the town commission is authorized to consider and act upon shall be accepted for filing. The application shall be on a form provided by the town manager, and shall include any required application fee.

(f) *Staff review.* The town manager shall review the application to determine whether the proposed variance complies with the general purpose and standards set forth herein. The town manager shall compile a written staff report summarizing the facts regarding the application, including all relevant documents. The complete staff report shall be transmitted to the planning and zoning board and to the town commission.

(g) *Review by planning and zoning board and by the town commission.* The town manager shall schedule the variance application for a meeting of the planning and zoning board. The planning and zoning board shall conduct one public hearing on the variance application, review the application, and make recommendations to the town commission for final action. The town manager shall then schedule the variance application, including the recommendation of the

planning and zoning board, for a meeting of the town commission.

(1) *Public hearing.* The town commission shall hold one public hearing on the variance application.

(2) *Action by the town commission.* In considering whether to approve or deny the application, the town commission shall review the application, the purposes and standards set forth in this section, the staff report, the recommendation of the planning and zoning board, and relevant evidence, including oral and written comments received at the public hearing. No variance shall be granted except upon the affirmative vote of at least four members of the town commission.

(h) *Standards of review.* The town commission shall approve a variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:

(1) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;

(2) The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;

(3) Literal interpretation of the provisions of the Town Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Town Code and results in unnecessary and undue hardship on the applicant;

(4) The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Town Code;

(5) An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

(6) Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;

(7) The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

(8) The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Town Code, is not injurious to the neighborhood, or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.

(i) *Conditions and restrictions.* The town commission may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the standards set out in this section, and to prevent or minimize adverse effects on other property in the neighborhood. Violation of such conditions and restrictions, when made a part of the terms under which a variance is granted, shall be deemed a violation of the Town Code, and shall constitute grounds for revocation of the variance.

(j) *Expiration of approval.* The approval of a variance shall be void if the applicant does not obtain a building permit or other development order to implement the variance within 12 months after the granting of the variance. An applicant who has obtained approval of a variance may request an extension of this time period within the original approval period. The town commission may grant one or more extensions for a period of up to a total of six months for good cause shown by the applicant.

(k) *Amendments and alterations to approved variances.* Any expansion to an approved

variance and any addition to or expansion of an existing variance shall require the same application, review, and approval as required under this section for the original variance.

(Code 1960, §§ 18-72, 18-73; Ord. No. 1299, § 1, 10-13-92; Ord. No. 1450, § 2, 4-13-04)

Sec. 90-92. Special exceptions.

The following are special exceptions which may be granted by resolution requiring at least three affirmative votes:

- (1) Nonconforming uses as follows:
 - a. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building.
 - b. To determine the existence of a nonconforming use as required under division 3 of this article.
- (2) Other special use exceptions as follows:
 - a. To determine, in cases of uncertainty, the classification of any use not specifically named in these regulations; provided, however, such use shall be in keeping with uses specifically listed in the district.
- (3) An exception to permit the erection of a carport canopy, constructed of canvas and pipe in accordance with section 90-185 in a front, side or rear yard setback in the RS-1, RS-2 and RD-1 districts.

(Code 1960, §§ 18-70, 18-71)

Sec. 90-93. Lapse of special exception or variance.

After the town commission has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year from its effective date if a building permit has not been issued, or if no substantial construction or change of use has taken place in accordance with the plans for which such special exception, or variance was granted. However, the town commission may grant an extension of up to one year prior to the expiration of the original approval.

(Code 1960, § 18-74)

Sec. 90-94. Special use permits.

(a) *Purpose and intent.* The development and execution of a comprehensive zoning ordinance is based upon the division of the community into zoning districts in which the use of land and buildings and the bulk and location of buildings in relation to the land are substantially uniform. However, it is recognized that within the town generally, or within certain zoning districts in particular, certain structures, uses, and/or occupancies specified in this chapter are of a nature requiring special and intensive review to determine whether or not they should be permitted in specific locations, and if so, the special limitations, conditions, and safeguards which should be applied as reasonably necessary to promote the general purpose of this chapter, and in particular, to protect adjoining properties and the neighborhood from avoidable potentially adverse effects. It is further intended that the expertise and judgment of the town commission be exercised in making such determinations, in accordance with the rules, considerations, and limitations relating to special use permits as established herein.

(b) *Applications for special use permits.* All applications for special use permits shall be filed with the town manager, and the town manager is hereby charged with the responsibility for their receipt, fee collection, processing, and/or distribution.

(1) Applications for special use permits shall be made by the owner of the subject property, on forms provided for the purpose, and shall be accompanied by such plans, reports, or other information, exhibits, or documents as may be reasonably required to make the necessary findings in the case.

(2) The applicant shall, upon filing an application for special use permit, pay to the town the sum of \$300.00 as a special use permit fee, which fee shall be nonrefundable.

(3) For the purposes of establishing time limitations on processing, no application shall be deemed to have been filed unless and until such applications shall have been completed; all plans, reports or other information, exhibits, or documents required by this chapter or any administrative rules adopted pursuant hereto shall have been fully complied with; and all fees due at the time of filing shall have been paid.

(4) If during the processing of any application, it is determined by the designated agent, agency, or body of the town, that in the particular circumstances of such case, additional information is required to make necessary findings bearing on its approval, denial, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplementary information may be used as grounds for denial of the permit.

(c) *Content of special use permit application.* Where applicable to the activity or development for which a special use permit is required and where necessary to formulate a decision on an application for special use permit, all of the following elements shall be required:

(1) Names of the owners of the proposed development or activity and a statement describing in detail the character and intended use of the proposed development or activity.

(2) General location map, showing relation of the site or activity for which special use permit is sought to major streets, existing utilities, shopping areas, important physical features in and adjoining the project or activity and the like.

(3) A survey of the subject property dated within six months of the date of the application, showing all existing structures, easements, etc. Such survey shall be sealed by a surveyor licensed to practice in the state.

(4) A site plan in accordance with the requirements of section 90-38.

(d) *Findings which shall govern issuance of special use permits.* A special permit shall not be granted until the town commission has determined that all of the following conditions have been satisfied:

(1) *Compliance with the comprehensive plan and this chapter.* The proposed use of the subject property is consistent with the purpose and intent of the town's comprehensive plan, and the proposed use is one which is permitted to be established within the district in which the subject property is located, subject to the approval of a special permit.

(2) *Orderly development.* The location, type, character and size of the use and of any building or other structure in connection therewith shall be in harmony with the appropriate and orderly development of the town and the neighborhood and will not hinder or discourage the appropriate development and use of adjacent property.

(3) *Property values and character.* The proposed use will not depreciate adjacent property values and the size and height of all proposed buildings and the extent of all proposed site improvements shall both be such as to harmonize with the existing

character of the neighborhood in which such use is to be established.

(4) *Public safety.* The nature and location of the proposed use and of any building or other structure therewith shall be such that there is adequate access to it for the purpose of fire protection, police protection, and other emergency equipment.

(5) *Traffic considerations.* The streets serving the proposed use are adequate to carry all prospective traffic; adequate provision is made for entering and leaving the subject site in such a manner that no undue hazard to traffic or undue traffic congestion shall be created; adequate off-street parking and loading facilities are provided as required by article V of these regulations; and the development of the subject site provides for the continuation and appropriate improvement of adjacent streets and alleys.

(6) *Landscaping and buffers.* The site on which the proposed use is to be located will be suitably landscaped to protect the neighborhood and adjacent property and the proposed use of the subject property will not result in the loss of any existing buffering between the subject site and adjacent single-family residentially zoned properties. When adequate buffering is not found to exist, sufficient buffers between the proposed use and adjacent properties shall be provided.

(7) *Relationship to utility systems, drainage systems and impact on community facilities.* The subject site has adequate water and sewerage systems to service the proposed use. Adequate provision for stormwater drainage can be provided without adversely affecting neighboring properties or adjacent public drainage systems, adequate provision has been provided for enclosed onsite storage of all trash and garbage and the proposed use will not adversely impact existing community facilities.

(8) *Compliance with zoning regulations.* In addition to meeting the other conditions described herein, the proposed use and the arrangement of all proposed buildings, structures, facilities and other site improvements shall comply with all applicable provisions of these zoning regulations.

(e) *Procedures regarding special use permits.*

(1) The town commission shall be solely responsible for determinations on applications for special use permits.

(2) The town commission shall refer all applications for special use permits to the planning and zoning board for recommendations, and may make referrals to other agencies, bodies, or officers for review, analysis, and/or technical findings and determinations and reports thereon.

(3) Three affirmative votes of the commission shall be required to approve a special use permit.

(4) An application for a special use permit may be withdrawn at any time, but if withdrawn after the public hearing has been convened at which it was to be considered, substantially the same application shall not be considered again until 12 months after the date of withdrawal.

(f) *Conditions and safeguards.* The town commission, in approving a special permit, may impose such restrictions as appear to the commission to be reasonable to protect or promote the rights of individuals, property values and the environment in the area as a whole, the public health, safety or welfare, sound planning and zoning principles, improved land use, site planning and land development, or better overall neighborhood compatibility. Such restrictions may concern, without limitation, the components of the site plan; building location, size and layout; distribution of and relationship between uses and structures; vehicular and pedestrian circulation; parking; open space; landscaping and screening; signs and lighting; and the design and architectural treatment of all structures.

(g) *Substantial construction within one year.* If substantial construction has not begun on a

building or structure, or no use has been established on a lot for which a special permit was approved by the town commission, within one year from the date of issuance of such special permit for such building, structure or use, such special permit shall become null and void. Substantial construction shall include the erection of all foundation structures and at-grade slabs.

However, in its discretion, and for good cause, the town commission, upon request of the applicant, may extend for an additional six months the period for the beginning of substantial construction or establishment of a use, provided such extension shall be granted only once for any particular special permit.

(h) *Mandatory inspections.* Each applicant, successor or assign shall make the premises available to the designated agent, agency or body of the town authorized to make the following inspections. Such agents of the town responsible for the enforcement of special use permits and attached safeguards and/or conditions shall make regular inspections of the subject property to assure compliance with all provisions, conditions and safeguards of such special use permit.

(i) *Building permits and certificates of use or occupancy.* Where building permits or certificates of use or occupancy are required by this chapter or other codes or ordinances of the town, no such building permit or certificate of use or occupancy shall be issued where this chapter requires special use permits unless and until any and all special use permits required have been obtained. Where uses or occupancies do not require building permits or certificates of use or occupancy, but are otherwise subject to requirements of this chapter, no such use or occupancy shall be initiated or maintained unless and until any and all special use permits herein in relation thereto have been obtained.

(Code 1960, § 18-75)

Secs. 90-95--9-99. Reserved.

DIVISION 5. PROPOSED AMENDMENTS**Sec. 90-100. Proposed land development regulation amendments and proposed comprehensive plan amendments; application of equitable estoppel to permits and approvals.**

(a) Amendments to land development regulations shall be enforced against all applications or requests for project approval upon the earlier of favorable recommendation by the planning and zoning board or the applicable effective date of the land development regulation amendment, as more particularly provided below. After submission of a completed application for a project approval, to the extent a proposed amendment to land development regulations would, upon adoption, render the application nonconforming, then the following procedure shall apply to all applications considered by the town or any appropriate town board:

(1) In the event applicant:

- a. Obtains (i) approval for a variance, special exception or special use permit or (ii) a full building permit; and
- b. Satisfies paragraph a. above prior to a favorable recommendation by the planning and zoning board with respect to any land development regulation amendment that is adopted by the town commission within 90 days of the planning and zoning board's recommendation,

then the project shall be presumed to have received a favorable determination that equitable estoppel applies and the subject land development regulation amendment shall not be enforced against the application or project (hereinafter, "favorable determination"). If at any time before expiration of the 90 days the proposed amendment fails before the town commission, then the project shall no longer be deemed nonconforming.

(2) In the event applicant:

- a. Obtains (i) approval for a variance, special exception or special use permit or (ii) a full building permit; and
- b. Satisfies paragraph a. above prior to the effective date of any land development regulation amendment where there was an unfavorable recommendation by the planning and zoning board with respect to the land development regulation amendment or when the planning and zoning board recommends favorably but the town commission fails to adopt the amendment within the specified 90 day period,

then the project shall be presumed to have received a favorable determination and the subject land development regulation amendment shall not be enforced against such application or project.

(3) If an applicant does not qualify under subsections (1) or (2) of this section (a) for a presumption of a favorable determination to avoid enforcement of adopted amendments against an application or project, then applicant may seek a determination from a court of competent jurisdiction as to whether equitable estoppel otherwise exists. If, however, an applicant fails to seek such determination, or if the court has made a determination unfavorable to applicant and such determination is not reversed on further review, then the town shall fully enforce the adopted land development regulation amendment against applicant's application or project.

(4) Any presumption of a favorable determination under subsections (1) and (2) of this section (a), or any favorable determination under subsection (3) of this section (a), shall

lapse contemporaneously with the failure, denial, expiration, withdrawal or substantial amendment of the application, approval or permit relative to the project or application to which the favorable determination is applied.

(5) For purposes of this section (a), all references to obtaining approval of a variance, special exception or special use permit shall mean the meeting date at which the town commission approves such application. For purposes of this section (a), "substantial amendment" shall mean an amendment or modification (or a proposed amendment or modification) to an application, approval or permit which, in the determination of the town manager, is sufficiently different from the original application or request that the amendment would require submission of a new application or request for approval. All references to obtaining a building permit shall mean the date of issuance of the permit.

(6) After submission of a completed application for a project approval, to the extent a proposed amendment to land development regulations would, upon adoption, render the application nonconforming, then the town or any appropriate town board shall not approve, process or consider an application unless and until (i) the project has cured the nonconformity or the applicant acknowledges that the town shall fully enforce the adopted land development regulation amendment against the applicant's application or project; (ii) the project qualifies under subsections (1) or (2), and subject to subsection (4) of this section (a) above; or; (iii) a favorable determination is made by a court. Except as otherwise provided herein, any proceeding or determination by any town employee, department, agency or board after a project becomes nonconforming shall not be deemed a waiver of the town's right to enforce any adopted land development regulation amendment.

(b) Amendments to the comprehensive plan shall be enforced against all applications or requests for project approval upon the earlier of favorable recommendation by the planning and zoning board or the applicable effective date of the comprehensive plan amendment, as more particularly provided below. After submission of a completed application for a project approval, to the extent a proposed amendment to the comprehensive plan would, upon adoption, render the application nonconforming, then the following procedure shall apply to all applications considered by the town or any appropriate town board:

(1) In the event applicant:

- a. Obtains (i) approval for a variance, special exception or special use permit or (ii) a full building permit; and
- b. Satisfies paragraph a. above prior to a favorable recommendation by the planning and zoning board with respect to any comprehensive plan amendment that is adopted by the town commission within 120 days after receiving comments on the transmitted proposed amendment from the Department of Community Affairs,

then the project shall be presumed to have received a favorable determination that equitable estoppel applies and the subject comprehensive plan amendment shall not be enforced against the application or project (hereinafter, "favorable determination"). If the town commission fails to adopt a resolution providing for transmittal of the proposed amendment to the Department of Community Affairs, or rejects the amendment within 90 days after a favorable recommendation by the planning and zoning board or fails to enact or rejects the amendment within 120 days after receiving comments on the transmitted proposed amendment from the Department of Community Affairs, then the project shall no longer be deemed nonconforming.

(2) In the event applicant:

- a. Obtains (i) approval for a variance, special exception or special use permit or (ii) a full building permit; and

b. Satisfies paragraph a. above prior to the effective date of any comprehensive plan amendment where there was an unfavorable recommendation by the planning and zoning board with respect to the comprehensive plan amendment, or when the planning and zoning board recommends favorably but the town commission rejects the amendment within the specified 90 day period, or the town commission fails to enact or rejects the amendment within 120 days after reviewing comments on the transmitted proposed amendment from the Department of Community Affairs,

then the project shall be presumed to have received a favorable determination and the subject comprehensive plan amendment shall not be enforced against such application or project.

(3) In the event an applicant does not qualify under subsections (1) or (2) of this section (b) for a presumption of a favorable determination to avoid enforcement of adopted amendments against an application or project, then applicant may seek a determination from a court of competent jurisdiction as to whether equitable estoppel otherwise exists. If, however, an applicant fails to seek such determination, or if the court has made a determination unfavorable to applicant and such determination is not reversed on further review, then the town shall fully enforce the comprehensive plan amendment against applicant's application or project.

(4) Any presumption of a favorable determination under subsections (1) and (2) of this section (b), or any favorable determination under subsection (3) of this section (b), shall lapse contemporaneously with the failure, denial, expiration, withdrawal or substantial amendment of the application, approval or permit relative to the project or application to which the favorable determination is applied.

(5) For purposes of this section (b), all references to obtaining approval of a variance, special exception or special use permit shall mean the meeting date at which the town commission approves such application. For purposes of this section (b), "substantial amendment" shall mean an amendment or modification (or a proposed amendment or modification) to an application, approval or permit which, in the determination of the town manager, is sufficiently different from the original application or request that the amendment would require submission of a new application or request for approval. All references to obtaining a building permit shall mean the date of issuance of the permit.

(6) After submission of a completed application for a project approval, to the extent a proposed comprehensive plan amendment would, upon adoption, render the application nonconforming, then the town or any appropriate town board shall not approve, process or consider an application unless and until (i) the project has cured the nonconformity or the applicant acknowledges that the town shall fully enforce the adopted comprehensive plan amendment against the applicant's application or project; (ii) the project qualifies under subsections (1) or (2), and subject to subsection (4) of this section (b) above; or; (iii) a favorable determination is made by a court. Except as otherwise provided herein, any proceeding or determination by any town employee, department, agency or board after a project becomes nonconforming shall not be deemed a waiver of the town's right to enforce any adopted comprehensive plan amendment.

(Ord. No. 1428, § 1, 6-11-02)

Secs. 90-101--90-120. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP**Sec. 90-121. Districts established.**

In order to regulate and restrict the location of trades and residences, and the location of buildings erected or altered for specific uses, to regulate or limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density of same and the intensity of the use of lot areas, and to regulate and determine the areas of yards, and other open spaces within and surrounding such buildings, the following zoning districts are hereby established:

TABLE INSET:

RS	Single-family residential district
RS-1	Single-family residential district
RS-2	Single-family residential district
RD-1	Two-family residential district
RD-2	Two-story multiple-family residential district
RM-1	Multiple-family residential district
RMO-1	Residential multifamily overlay district
RT-1	Tourist district
B-1	Business district
CO-1	Commercial office overlay district
MU	Municipal use district

(Code 1960, § 18-4; Ord. No. 1430, § 1, 8-13-02)

Sec. 90-122. Identification of district maps.

Such land and the zoning district classification thereof shall be shown on a map designated as the Zoning District Map of Surfside, Florida, dated June 12, 1990, and signed by the mayor and town clerk of Surfside, Florida, upon adoption. This zoning district map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations by the clerk of the town. Such map shall be available for public inspection in the offices of the town clerk and the town manager and any later alterations to this map, adopted by amendment as provided in these regulations, shall be similarly dated, filed, and made available for public reference.

(Code 1960, § 18-5; Ord. No. 1430, § 2, 8-13-02)

Sec. 90-123. Interpretation of district boundaries.

(a) *Map symbols.* A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines which such name or letter-number combination is shown or indicated, except as otherwise provided by this section.

(b) *Interpretation.* Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:

(1) In cases where a boundary line is given a position adjacent to or within a street or alley, easement, or canal, it shall be deemed to be in the center of the street, alley, easement, or canal and if the actual location of such street, alley, easement or canal varies slightly from the location as shown on the district map, then the actual location shall control.

(2) In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

(3) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be resubdivided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of these regulations are bounded approximately by lot lines, such lot lines shall be construed to be the boundary of such districts unless such boundaries are otherwise indicated in the map or by ordinance.

(4) All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the town limit line.

(Code 1960, § 18-6)

Secs. 90-124--90-144. Reserved.

ARTICLE IV. DISTRICT REGULATIONS**Sec. 90-145. RS single-family residential district.**

(a) *Purpose of the district.* The purpose of the RS single-family residential district is to protect the excellent character of single-family estate development now prevailing throughout parts of the town by preventing encroachment of incompatible uses. The RS single-family residential district requires a very large floor area and a very large lot area that conform to an established pattern of the development.

(b) *Permitted uses.* A building or land shall be used only for the following purposes:

(1) Detached single-family dwellings, subject to the following restrictions and limitations, as follows:

a. No structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose which is designed, arranged or intended to be used or occupied for any purpose other than as a one-family residence, including every customary use not inconsistent therewith.

b. Every use not specifically authorized and permitted is prohibited and nothing herein shall authorize or be construed to permit the renting of a room or a portion of the property or improvement; or, to permit the use of any part of the premises as a business, office or establishment for the purpose of carrying on any business or the practice of rendering personal, trade or professional services.

c. An accessory or subordinate building, attached or detached from the main premises in a single-family district, shall be construed to permit the use of such building for the purposes of garages, cabanas, storage and home workshops (non-commercial). However, nothing herein shall authorize or be construed to permit the occupancy or the use of any accessory building or structure, as a place of abode or dwelling, and no cooking facilities shall be permitted.

d. No building or buildings shall be altered by adding an exterior door to such building or buildings, nor shall any addition be constructed to any building or buildings which would add an exterior door; except that in the addition of an enclosed porch or Florida room, an exterior door may be installed on the wall facing the rear yard. When a garage is converted for any other use, the garage door or doors shall be replaced by a solid exterior wall and access to the former garage area shall be from the main premises only. At least one window shall be provided. It is intended hereby to prohibit and prevent any violation of the single-family classification and to minimize the burden upon the administrative forces of the town in policing and enforcing the provisions hereof.

(2) Public parks and playgrounds.

(c) *Permitted accessory uses.*

(1) Boat docks and boat moorings for private use only.

(2) Domestic storage, including automobiles in a main building or in an accessory building.

(3) Home barbecue grills, swimming pools and game courts for the use of residents and guests.

(4) Temporary building incidental to new construction, which building shall be removed upon completion of new construction.

(d) *Height, area and yard requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(e) *Nonconforming lots.* Anything in this section to the contrary notwithstanding, all lawfully platted lots with less than 75 feet frontage, under single ownership and not contiguous to other property owned or controlled by the same property owner as of July 1, 2002, may be used for improvements that conform in all other respects to applicable zoning regulations.

(Ord. No. 1430, § 3, 8-13-02; Ord. No. 1432, § 1, 9-10-02; Ord. No. 1448, § 2, 1-13-04)

Sec. 90-146. RS-1 and RS-2 single-family residential districts.

(a) *Purpose of the district.* The purpose of the RS-1 and RS-2 single-family residential districts is to protect the excellent character of single-family development now prevailing throughout much of the town by preventing encroachment of noxious and incompatible uses. The RS-1 single-family district requires a larger floor area and lot area which conforms to the established pattern of the development. The RS-2 district permits smaller lot areas and is related to lot sizes occupied by the majority of the single-family residences.

(b) *Permitted uses.* A building or land shall be used only for the following purposes:

(1) Detached single-family dwellings, subject to the following restrictions and limitations, as follows:

a. No structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose which is designed, arranged or intended to be used or occupied for any purpose other than as a one-family residence, including every customary use not inconsistent therewith.

b. Every use not specifically authorized and permitted is prohibited and nothing herein shall authorize or be construed to permit the renting of a room or a portion of the property or improvement; or, to permit the use of any part of the premises as a business, office or establishment for the purpose of carrying on any business or the practice of rendering personal, trade or professional services.

c. An accessory or subordinate building, attached or detached from the main premises in a single-family district, shall be construed to permit the use of such building for the purposes of garages, cabanas, storage and home workshops (non-commercial). However, nothing herein shall authorize or be construed to permit the occupancy or the use of any accessory building or structure, as a place of abode or dwelling, and no cooking facilities shall be permitted.

d. No building or buildings shall be altered by adding an exterior door to such building or buildings, nor shall any addition be constructed to any building or buildings which would add an exterior door; except that in the addition of an enclosed porch or Florida room, an exterior door may be installed on a nonbearing wall facing the rear yard. When a garage is converted for any other use, the garage door or doors shall be replaced by a solid exterior wall and access to the former garage area shall be from the main premises only. At least one window shall be provided. It is intended hereby to prohibit and prevent any violation of the single-family classification and to minimize the burden upon the administrative forces of the town in policing and enforcing the provisions hereof.

(2) Public parks and playgrounds.

(c) *Permitted accessory uses.*

- (1) Boat docks and boat moorings for private use only.
- (2) Domestic storage, including automobiles in a main building or in an accessory building.
- (3) Home barbecue grills, swimming pools and game courts for the use of residents and guests.
- (4) Temporary building incidental to new construction, which building shall be removed upon completion of new construction.

(d) *Height, area and yard requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(Code 1960, § 18-18; Ord. No. 1374, § 2, 7-8-97; Ord. No. 1447, § 2, 12-9-03)

Sec. 90-147. RD-1 two-family residential district.

(a) *Purpose of the district.* The purpose of the RD-1 two-family residential district is to provide for both single-family and two-family residences, and in certain instances for more intensive residential uses along the east side of Harding Avenue, but building heights shall be limited to two stories to protect nearby single-family residences.

(b) *Permitted uses.* A building or land shall be used only for the following purposes:

- (1) Any use permitted in the RS-1 and RS-2 single-family residential districts.
- (2) Two-family dwellings.
- (3) The owner of 75 feet or more of property along the east side of Harding Avenue may erect a multiple-family building.

(c) *Permitted accessory uses.* Any accessory use permitted in the RS-1 and RS-2 single-family residential districts.

(d) *Permitted conditional uses.* Those uses which may be permitted as conditional uses shall be only those described under subsections 90-41(b)(1), 90-41(b)(2), 90-41(b)(3), 90-41(b)(4) and 90-41(b)(5).

(e) *Height, area and yard requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(Code 1960, § 18-19)

Sec. 90-148. RD-2 two-story multiple family residential district.

(a) *Purpose of the district.* The purpose of the RD-2 two-story multiple family residential district is to provide for moderate density residential development in buildings not more than two stories in height.

(b) *Permitted uses.* A building or land shall be used only for the following purposes:

- (1) Any use permitted in the RS-1 and RS-2 single-family residential districts.
- (2) Two-family dwellings.
- (3) Multiple-family dwellings.

(c) *Permitted accessory uses.* Any accessory use permitted in the RS-1 and RS-2 single-

family residential districts.

(d) *Height, area and yard requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(Code 1960, § 18-20)

Sec. 90-149. RM-1 multiple-family residential district.

(a) *Purpose of the district.* The purpose of the RM-1 multiple-family residential district is to encourage a good standard of rental living units that will accommodate both tourists and yearround residents. However, no services or sales to guests shall be permitted within buildings within this district.

(b) *Permitted uses.* A building or land may be used only for the following purposes:

- (1) Any use permitted in the RD-1 two-family residential district.
- (2) Multiple-family dwellings.
- (3) Motels.
- (4) Suite-motels, but only for buildings newly-constructed or converted to suite-motels on or after June 1, 1999. No building shall convert from another use to a suite-motel unless it meets all requirements for a suite-motel, including but not limited to all zoning requirements of this Code.

(c) *Permitted accessory uses.*

- (1) Any accessory use permitted in the RS-1 and RS-2 single-family residential districts.
- (2) An office containing an area of not more than two percent of the gross floor area of the building for administration of rental units in a building containing ten or more living units.
- (3) Lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.
- (4) A laundry room for the use of residents and guests of a multiple-family dwelling. Coin-operated laundry machines may be utilized.
- (5) Coin-operated vending machines such as for candy, tobacco, ice, soft drinks and sundries inside a building containing ten or more living units or guest rooms.
- (6) Off-street parking and loading facilities.
- (7) Swimming pools, cabanas and game courts for the use of guests of the hotel, motel or residential development.

(d) *Permitted conditional uses.* Those uses which may be permitted as conditional uses shall be only those described under subsections 90-41(b)(3), 90-41(b)(4) and 90-41(b)(5).

(e) *Height, area and yard requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(Code 1960, § 18-21; Ord. No. 1400, § 4, 5-11-99; Ord. No. 1404, § 2, 6-8-99)

Sec. 90-150. Reserved.

Editor's note: Ord. No. 1395, § 1, adopted Feb. 9, 1999, repealed § 90-150 in its entirety. Formerly, said section pertained to RMO-1 Residential multifamily overlay district. See the Code Comparative

Table.

Sec. 90-151. RT-1 tourist district.

(a) *Purpose of the district.* The purpose of the RT-1 tourist district is to provide facilities that will afford convenience for tourists and enable intensive use of the ocean frontage. Tall buildings are permitted but ample open space is required around such buildings.

(b) *Permitted uses.* A building or land shall be used for the following purposes:

(1) Any uses permitted in the RM-1 multifamily residential district except that no churches or synagogues shall be permitted.

(2) Private clubs.

(3) Hotels and motels.

(4) Hotels and motels may provide a barbershop, beauty parlor, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand, automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines as defined in section 70-33, washing machines as defined in section 70-33, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel except as provided in section 90-209(b)(1)b.

(5) Suite-hotels, but only for buildings newly-constructed or converted to suite-hotels on or after June 1, 1999. No building shall convert from another use to a suite-hotel unless it meets all requirements for a suite-hotel, including but not limited to all zoning requirements of this Code.

(6) Suite-motels, but only for buildings newly-constructed or converted to suite-motels on or after June 1, 1999. No building shall convert from another use to a suite-motel unless it meets all requirements for a suite-motel, including but not limited to all zoning requirements of this Code.

(c) *Permitted accessory uses.*

(1) Any accessory use permitted in the RM-1 multifamily residential district.

(2) Swimming pools, cabanas and game courts for the use of guests of the hotel, motel or apartment.

(3) Off-street parking and loading facilities.

(d) *Height, area, yard and bulk requirements.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(e) *Permitted conditional uses.* Those uses which may be permitted as conditional uses shall be only those described under subsection 90-41(b)(6).

(Code 1960, § 18-23; Ord. No. 1400, § 5, 5-11-99; Ord. No. 1408, § 1, 1-11-00)

Sec. 90-152. B-1 business district.

(a) *Purpose of the district.* The purpose of the B-1 business district is to provide for retail shopping and personal service needs of the town's residents and tourists. It is intended to prevent uses and activities which might be noisy, offensive, obnoxious or incongruous in

behavior, tone or appearance and which might be difficult to police.

(b) *Permitted uses.* No building or land within this district shall be used in whole or in part except for one or more of the following permitted uses:

(1) Art agencies:

- a. Antique shops.
- b. Gift shops.
- c. Art dealers.
- d. Art supplies.
- e. Photographers and camera stores.
- f. Art and photograph galleries.

(2) Bakeries, subject however, to the following restrictions and conditions:

- a. That no baking shall be done on the premises for other retail or wholesale outlets.
- b. That ovens or oven capacity is limited in total usable baking space, not to exceed in volume 18 standard pans of 18 by 26 inches in width and length.
- c. That adjoining properties shall be safeguarded and protected from exhaust fan or other obnoxious noises and odors at all times.
- d. That all baking will be done by the use of electric or natural gas (not bottled gas) ovens only.
- e. All machinery and equipment shall be entirely confined within the main building.
- f. That the hours of baking operation shall be limited to those hours between 6:00 a.m. and 9:00 p.m.
- g. That the entire store area shall be fully air-conditioned as required for comfort.
- h. That baking shall not be permitted within 20 feet of the store front, and shall be separated from the sales area by a partition or counter.

(3) Barbershops.

- (4) Beauty parlors: Exterior windows on the ground floor shall be screened, curtained or otherwise made opaque four feet six inches from the grade of the adjacent sidewalk so as to block the view of the interior premises from the public right-of-way. However, such screening shall not be required where only hair styling and manicures are performed within 20 feet of the public right-of-way.

(5) Business and professional offices, except veterinary offices.

(6) Clothing stores and services:

- a. Men's, women's, children's clothing.
- b. Millinery.
- c. Tailor.
- d. Shoes.
- e. Dry cleaning and laundry agency, provided all machinery which provides cleaning or laundry services shall be separated from customer areas by a

partition or counter and no customers shall be permitted to use such machinery. In addition, all drycleaning machinery shall be nonventilated, sealed system type machinery in which "Fluorocarbon R-113" type solvents are used.

- . f. Furrier.
- . g. Shoe repair, provided no machinery for providing repairs shall be visible from the sidewalk or street and no shoe repair shop shall be permitted on Harding Avenue.
- . h. Dry goods.

(7) Department stores.

(8) Entertainment:

- . a. Video tape sales and rentals, provided all tapes sold are prerecorded, and all tapes are rated either G, PG, PG-13, or R.
- . b. Caterers.
- . c. General ticket agencies.
- . d. Theatre and cinema.

(9) Existing filling station on the unnumbered lot at the southwest corner of Block 4, Altos Del Mar No. 6.

(10) Food products, provided that no sales shall be made through an open window to any street, alley, driveway or sidewalk:

- . a. Delicatessens.
- . b. Restaurants.
- . c. Candy and nut shops.
- . d. Grocery and meat stores or supermarkets, provided no live meat or poultry shall be kept on the premises.
- . e. Confectionery and ice cream stores.
- . f. Fruit shops.
- . g. Liquor stores.

(11) General or special merchandise:

- . a. Toys.
- . b. Hardware, paint and wallpaper.
- . c. Luggage.
- . d. Office machines and supplies.
- . e. Pet supplies.
- . f. Stationery and greeting cards.
- . g. Furniture, provided no repairing or servicing of furniture is permitted on the premises.
- . h. Jewelry.
- . i. Flowers and plants.
- . j. Sporting goods.

- k. Drug stores and sundries.
 - l. Cigars and tobacco.
 - m. Books and newspapers.
 - n. Appliances.
 - o. Pottery.
 - p. Interior decorator.
- (12) Locksmith, except on Harding Avenue.
- (13) Monetary services:
- a. Banks.
 - b. Savings and loan associations.
 - c. Stock and bond brokers.
 - d. Currency exchange.
- (14) Music:
- a. Sale of televisions, radios, phonograph and recording equipment.
 - b. Sheet music and musical instruments.
- (15) Public services:
- a. Telegraph station.
 - b. Telephone exchange.
- (16) Travel agency.
- (17) Coin-operated machines. Coin-operated machines for dispensing goods or services are permitted, except that washing machines, dryers and other laundry-related equipment are prohibited. No coin-operated games of chance are permitted, but coin-operated games of skill are permitted within establishments solely dispensing liquor, as defined in chapter 6, for consumption on the premises only; provided, however, that not more than three such games of skill are permitted in any such establishment, and that such games shall not be used for wagering nor for the awarding of prizes of any value.
- (18) The following uses shall be permitted throughout this district, provided such uses shall be located above the first floor level:
- a. Dance or music instruction studios, provided such studios meet all of the following restrictions and conditions:
 - 1. That the premises be air conditioned and soundproofed.
 - 2. That no dance instruction or dancing shall be visible from any sidewalk, street or alley.
 - 3. That the opening and closing hours for such studios may be established by the town commission at its discretion at any time.
 - b. Delivery service.
 - c. Driving school offices, provided such use shall be limited to offices only, and shall not be interpreted in any manner as permitting the conduct of any such school's or schools' business, activities or functions upon the public streets of the town.

- d. Employment agencies, provided that such agencies maintain at all times sufficient office space to accommodate all applicants for employment using their services and obviate the congregating or loitering of such applicants in any hallway or on any sidewalk.
- e. Health studio or club, or reducing salon.
- f. Loan or mortgage office.
- g. Medical or dental clinic,
- h. Modeling school, language school, or athletic instruction.
- i. Private club or lodge hall.
- j. Radio or television station or studio.
- k. Secretarial service, mailing, bookkeeping, court reporter.
- l. Taxi agency.
- m. Title company.

(c) *Permitted accessory uses in the B-1 district.* Any subordinate building or use which is clearly incidental to and customary in connection with the main building or use, provided there shall be no open storage of products and materials, including garbage and debris, on any lot.

(d) *Business conduct in the B-1 district.* All of the above uses permitted in the B-1 districts, other than off-street parking and the existing filling station, shall be conducted entirely within a completely enclosed building and for the purposes of this section, the display of merchandise shall be construed to be part of, and incidental to, the conduct of business.

(e) *Uses not specifically listed in the B-1 district.* Any use not included in the listing under subsection (b) of this section is prohibited. However, any use not listed above, but having the same general characteristics and of such nature that the same would not lower the standards of the area, may be permitted provided such use is granted a special use exception under the provisions of section 90-94.

(f) *Height, area and yard requirements in the B-1 district.* Maximum height regulations and minimum requirements for floor and lot area and for yards are contained in section 90-155.

(g) *Awnings, canopies or canopy valances in the B-1 district.* After the effective date of this section, no awnings, canopies or canopy valances shall be erected except those of the following colors: beige, black, blue, brown, green, grey, pink, red, white or yellow. No more than two of the foregoing colors shall be used in any one awning, canopy or canopy valance. No neon, fluorescent, "dayglo" or similar type of colors shall be used. All awnings shall be made of a cloth or plastic fabric.

Awnings or canopies shall not extend more than six feet over the public right-of-way, measured from the adjacent property line, and shall be at least eight feet in height above the pavement. Such awnings or canopies shall be entirely supported from the face of the structure they serve, and shall fully conform to all requirements of the South Florida Building Code.

(Code 1960, § 18-24; Ord. No. 1333, § 1, 12-14-93)

Sec. 90-153. NCS-O neighborhood commercial services overlay district.

(a) *Purpose and intent of the district.* The purpose of the NCS-O neighborhood commercial services overlay district is to provide for the foodstuffs and comestibles conveniently needed to serve the town's residents and tourists. It is intended that this district will complement and expand the flexibility of existing underlying commercial, residential and tourist zoning districts to

assure the continued availability of neighborhood-serving grocery establishments that meet the daily needs of the town, typically requiring easy and convenient access by pedestrians and local automobile traffic. This district is to be located only in areas served by collector and arterial roadways with convenient access to town residential and tourist neighborhoods and directly accessible by public transportation systems, and whose site location complies with the standards and criteria set forth herein.

(b) *Effect of the NCS-O district designation.* The effect of these NCS-O regulations shall be to modify regulations within portions of the zoning districts included within the NCS-O boundaries, but only to the extent indicated herein.

(c) *Permitted uses in the NCS-O district.* Uses permitted by underlying zoning districts shall be unchanged and subject to the regulations of the underlying zoning. In addition, no building or land within this district and subject to the provisions of this district shall be used in whole or in part except for the following permitted use, provided such use is granted a special use permit under the provisions of section 90-94:

Grocery supermarkets, provided no live meat, poultry or fish, except seafood, shall be kept on the premises, and individual establishments shall not be less than 20,000 square feet or more than 29,500 square feet in air conditioned floor area and not more than 33,000 square feet in gross floor area. Grocery Supermarkets shall be full-service providers of foodstuffs and comestibles, which shall include:

- (1) Delicatessen,
- (2) Bakery, subject however, to the restrictions and limitations provided in section 90-152(b)(2),
- (3) Fresh seafood,
- (4) Fresh fruits and vegetables,
- (5) Butcher shop with meats cut-to-order.

Other food, beverage (including beer and wine solely for consumption off premises) and pharmaceutical goods may be sold, including an outdoor food court, provided the above listed items are included. An establishment vending primarily packaged, canned or bulk food items shall not be construed to be grocery supermarket full-service provider.

No sales shall be made through a window or other opening to any street, alley, driveway or sidewalk.

(d) *Permitted accessory uses in the NCS-O district.* Parking and loading clearly incidental and customary in connection with the main building or use, provided there shall be no open storage of products or materials, including garbage or debris, on any property.

(e) *Business conduct in the NCS-O district.* All of the above uses permitted in the NCS-O district, other than off-street parking and loading, shall be conducted entirely within a completely enclosed building, and only for the purposes of this section.

(f) *Activities not specifically listed in the NCS-O district.* Subject to subsection (c) above and the permitted accessory uses of underlying zoning districts, for the purposes of this district, any activity not included in the listing of permitted district uses in this section is prohibited. However, any activity not so listed, but having the same general characteristics, and that is normally and customarily included in the functions of a grocery supermarket and that would not lower the standards of the area and still comply with the purpose and intent of the district, may be permitted.

(g) *Height, area and yard requirements in the NCS-O district.* Maximum height shall be three stories and 40 feet. Minimum requirements for floor area, lot area and yards shall be as provided in the underlying zoning districts.

(h) *District location standards.* The NCS-O district may be applied as an overlay only to B-1, RD-2, RM-1, RS-2 and MU zoning districts, and only when all of the following conditions are met:

(1) To assure concentration and compatibility of commercial services and reinforcement of the existing town commercial center, not less than 2/3 of the gross square footage of any structure permitted pursuant to this section shall be located within the B-1 district, and providing the principal building entrance be located facing Harding Avenue. In no event shall the gross building square footage constructed in all districts exceed by more than 15 percent the maximum permitted in the B-1 district portion of the NCS-O district.

(2) Any portion of the NCS-O district that overlays an RS-2 district shall be located not more than 50 feet from the B-1 district portion of the overlay district (as measured by a straight line between their closest points to each other), and shall be utilized solely for employee surface parking, subject to meeting all yard setbacks and landscape buffering requirements with no variances.

(3) To avoid concentrations of vehicular traffic at peak use periods and burdens on available public parking facilities, no permitted uses may be located within 500 feet of each other (as measured by a straight line between their closest points to each other).

(4) To assure a compact pedestrian environment and pedestrian safety and security, a permitted use shall be a contiguous parcel of not less than 65,000 square feet.

(i) *Parking standards.* Minimum parking requirements shall be as provided in section 90-226.

(j) *Special use permit required.* All applications for a building permit shall require the prior approval of a special use permit in accordance with the provisions of section 90-94.

(Ord. No. 1423, § 2, 9-11-01)

Sec. 90-154. MU municipal use district.

(a) *Purpose of the district.* Upon ownership of any property by the town, such property shall automatically be included within a MU municipal use district.

(b) *Permitted uses.* The specific use shall be determined in accordance with the town's comprehensive plan and under the regulations set forth for special permits. No land, water, air or structure may be used in whole or in part, except for one or more of the following uses:

(1) Publicly owned and operated recreational facilities, playgrounds, playfields, and parks.

(2) Public and governmental buildings, services and uses such as governmental office, police station, fire station, library, museum, auditorium.

(3) Municipal parking areas, parking structures, vehicle and equipment storage, maintenance and service areas.

(4) Public utilities or public service structures or appurtenances.

(5) Any use similar to those listed above and in accordance with the comprehensive plan for the specific area under construction.

(6) Accessory uses for the above uses.

(c) *Lot size.* There shall be no minimum lot area or minimum frontage requirement.

(d) *Required setbacks.* The minimum setback requirements shall be determined by the adjacent use district or districts and shall be consistent with setback requirements for similar

uses as designated in this chapter.

(e) *Maximum building height.* There shall be no maximum building height.

(f) *Maximum floor area.* There shall be no maximum floor area.

(g) *Maximum density.* Maximum density applies only to residential uses and shall be determined by the adjacent use district or districts and shall be consistent with maximum densities of similar uses as designated in these regulations.

(Code 1960, § 18-26)

Sec. 90-155. District regulations tables.

TABLE I1

Height, area and bulk requirements for the various districts shall be as indicated in the chart below together with the use, height and bulk regulations contained elsewhere in this chapter.

TABLE INSET:

		Minimum Lot Requirements				Mir
				Maximum Height		
District		Lot Area per Dwelling Unit in Square Feet	Lot Width in Feet	Stories	Feet	De Frc Ya in f
RS	Single-family residential	11,250	75	2	35	30
RS-1	Single-family residential	8,000	50	2	30	20
RS-2	Single-family residential	5,600	50	2	30	20
RD-1	Residential					
	Single-family	5,000	50	2	30	20
	Two-family	2,500	50	2	30	20
	Multifamily	2,000	75	2	30	20

RD-2	Multifamily residential					
	Single-family	5,000	50	2	30	20
	Two-family	2,500	50	2	30	20
	Multifamily	1,200	75	2	30	20
RM-1	Multifamily residential					
	Single-family	5,000	50	2	30	20
	Two-family	2,500	50	2	30	20
	Multifamily	750	75	3	40	20
	Hotel and motel	400	100	3	40	20
RMO-1	Multifamily residential					All stru
	Single-family townhouse	550	150 2	3	30	
	Two-family	550	150 2	3	30	1st 20
	Multifamily	550	150 2	5	60	2nd -20
						3rd (H& -50
						3rd (C& 20
						St& an& (H& -75
						St& an& (C& 30
RT-1	Tourist 3					

	Multifamily	400	100	12	120	40
	Hotel and motel	--	150	12	120	40
B-1	Business	No dwelling units permitted	No minimum	3	40	No rec
CO-1	Commercial office					
	Multifamily	750	100	5	60	20
	Hotel/motel	400	100	5	60	20
	Office building		100	5	60	20

1 A dash (-) indicates no applicable regulation.

2 However, the minimum lot width on through lots running from Collins Avenue to Harding Avenue shall be 100 feet provided such minimum width is continuous from Collins to Harding Avenue.

3 On those lots and parcels within this district where construction is regulated by the State of Florida Coastal Construction Code, swimming pools and their associated decks may be constructed at any lot or parcel west of the ocean bulkhead line, provided such structures and their adjacent decks do not project more than eight feet above grade. Lot area in this district shall be measured from the front property line to the ocean bulkhead line.

4 Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard; however, a required yard of ten feet shall be provided exclusive of the alley width, and no portion of any building, including allowable encroachments, shall be permitted within ten feet of any alley.

5 Any property on which a foundation was commenced prior to June 1, 1992, is subject to a minimum front yard depth of 25 feet.

6 As modified by sections 90-178, 90-179.

7 The number of efficiencies in any building shall not exceed ten percent of the total number of dwelling units in said building. An efficiency is a dwelling unit of not less than 600 square feet, consisting of a combination living room/bedroom, with small or auxiliary rooms such as kitchenette, breakfast nook and bath, arranged so as to consist of only one habitable room. See Table II.

8 On lots or parcels within this district, the minimum depth of a rear yard abutting Collins Avenue, Harding Avenue or Abbott Avenue shall be 20 feet.

9 On lots or parcels within this district, the minimum width of a side yard abutting any east-west street shall be 15 feet.

TABLE II. MINIMUM FLOOR AREA FOR APARTMENTS, HOTEL/SUITE-HOTEL ROOMS AND MOTEL/SUITE-MOTEL ROOMS

TABLE INSET:

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Residential apartments		
	Efficiency	600 square feet
	One-bedroom apartment	800 square feet
	Two-bedroom apartment	950 square feet
	Three-bedroom or more apartment	1,150 square feet
	Minimum average unit size per building	1,000 square feet
Hotels and motels, each room		350 square feet
Suite-hotels and suite-motels, for each room		525 square feet

(Code 1960, ch. 18, art. Va; Ord. No. 1279, § 1, 5-12-92; Ord. No. 1391, § 1, 10-13-98; Ord. No. 1429, §§ 1, 2, 8-13-02; Ord. No. 1430, § 4, 8-13-02; Ord. No. 1436, § 2, 1-14-03)

Secs. 90-156--90-175. Reserved.

Sec. 90-155. District regulations tables.

TABLE II

Height, area and bulk requirements for the various districts shall be as indicated in the chart below together with the use, height and bulk regulations contained elsewhere in this chapter.

TABLE INSET:

		Minimum Lot Requirements		Maximum Height		Minimum Yard Requirements 6				Minimum Floor Area		Maximum Lot Coverage
		Lot Area per Dwelling Unit in Square Feet	Lot Width in Feet	Stories	Feet	Depth Front Yard in Feet	Interior in Feet	Corner in Feet	Depth Rear Yard in Feet			
RS	Single-family residential	11,250	75	2	35	30	7.5	10	As per Sec. 90-179(c)	3,600	40%	
RS-1	Single-family residential	8,000	50	2	30	20	5	10	20	2,500	40%	
RS-2	Single-family residential	5,600	50	2	30	20	5	10	20	1,800	40%	
RD-1	Residential											

	Single-family	5,000	50	2	30	20	5	10 9	20	1,800	--
	Two-family	2,500	50	2	30	20	5	10 9	20	950	--
	Multifamily	2,000	75	2	30	20	7	10 9	10 8	950 7	--
RD-2	Multifamily residential										
	Single-family	5,000	50	2	30	20	5	10	10 8	1,800	--
	Two-family	2,500	50	2	30	20	5	10	10 8	950	--
	Multifamily	1,200	75	2	30	20	7	10 9	10 8	see Table II 7	--
RM-1	Multifamily residential										
	Single-family	5,000	50	2	30	20	5	10	10 8	1,800	--
	Two-family	2,500	50	2	30	20	5	10	10 8	950	--
	Multifamily	750	75	3	40	20	7	10	10 8	see Table II 7	--
	Hotel and motel	400	100	3	40	20	7	10	20	see Table II	--

RMO-1	Multifamily residential					All structures	All structures	All structures		All structures
	Single-family townhouse	550	150 2	3	30				see Table II	First story 60%
	Two-family	550	150 2	3	30	1st story--20	Stories 1--5 (South)--15	First story--10	see Table II	Second story 55%
	Multifamily	550	150 2	5	60	2nd story--20	1st story (North)--10	Stories 2 and 3--15	see Table II 7	Stories 3--5 40%
						3rd story (Harding)--50	Stories 2 and 3 (North)--20	Stories 4 and 5--20		
						3rd story (Collins)--20	Stories 4 and 5 (North)--50			
						Stories 4 and 5 (Harding)--75				
						Stories 4 and 5 (Collins)--30				

RT-1	Tourist 3										
	Multifamily	400	100	12	120	40 5	10	20	30	see Table II 7	--
	Hotel and motel	--	150	12	120	40 5	10	20	30	see Table II	--
B-1	Business	No dwelling units permitted	No minimum	3	40	None required	None required	None required	None required	--	--
CO-1	Commercial office										
	Multifamily	750	100	5	60	20	15	10	20 4	see Table II 7	--
	Hotel/motel	400	100	5	60	20	15	10	20 4	see Table II	--
	Office building		100	5	60	20	15	10	20 4	see Table II	--

ARTICLE V. SUPPLEMENTARY REGULATIONS**DIVISION 1. GENERALLY****Sec. 90-176. Modifications of height regulations.**

(a) In the RS-1, RS-2, RD-1 and RD-2 districts, cupolas, chimneys, flagpoles, and similar architectural features occupying in the aggregate not more than one percent of the total roof area, may be erected to a reasonable and necessary height, not to exceed an additional three feet above the maximum building height established herein.

(b) In the RM-1, RMO-1, B-1 and CO-1 districts, spires, steeples, stair accessways, antennas, cupolas, chimneys, flagpoles, ventilators, tanks, elevator equipment rooms and similar architectural features and/or mechanical spaces, occupying in the aggregate not more than ten percent of the total roof area, and not used for human habitation, may be erected to a reasonable and necessary height, not to exceed an additional 12 feet above the maximum building height established herein.

(c) In the RT-1 district spires, steeples, stair accessways, antennas, cupolas, chimneys, flagpoles, ventilators, tanks, elevator equipment rooms and similar architectural features and/or mechanical spaces, occupying in the aggregate not more than 30 percent of the total roof area, and not used for human habitation, may be erected to a reasonable and necessary height, not to exceed an additional 20 feet above the maximum building height established herein. Any enclosure having a floor area of more than 15 square feet shall be constructed as required for the main portion of the building.

(d) Regulations regarding stories, extensions in certain districts are as follows:

(1) An area in a RM-1, RMO-1, RT-1 or CO-1 district, at least 42 inches below grade, that is used primarily for off-street parking spaces shall not be considered a story for the purpose of determining the number of stories allowed in section 90-155.

(2) Underground facilities in an RT-1 district used primarily for off-street parking spaces may extend into the side and rear yards to the property lines, provided the top surface of such extensions is not more than five feet above grade. However, where such extensions are used for driveways leading to building entrances, the top surface of such extensions shall not be more than eight feet above grade. In all cases the front yard setback shall be landscaped in accordance with section 90-194.

(3) In the RT-1 district, where excavation is prohibited by state law or regulation, a garage structure on grade and not exceeding ten feet in height shall not be considered a story for the purpose of determining the number of stories allowed in section 90-155.

(e) In the RT-1 district, on lots or parcels where construction is regulated by the State of Florida Coastal Construction Code, maximum height shall be measured from whatever elevation is established by the Florida Department of Environmental Protection for the first floor.

(f) In the RM-1 district, lots with less than 75 feet of frontage may be used for multifamily development as provided in this code with the following interdependent limitations and requirements:

(1) A height limit of three residential floors plus one floor of parking (either at grade or below grade) with a maximum building height of 40 feet.

(2) Front setback shall be 25 feet, with other setbacks as stated in section 90-155, table I, under RM-1, multifamily.

(3) At least 60 percent of the front setback shall be landscaped, except as may be otherwise approved by the town commission. Lighting shall be provided as may be required by the town manager.

(4) Parking is absolutely prohibited in any portion of the front yard area, but is permitted in side and rear yards, subject to landscaping requirements imposed by the town manager.

(5) Unit size minimum floor area shall be:

TABLE INSET:

Efficiency	None permitted
One bedroom	1,000 square feet
Two bedrooms	1,150 square feet
Three bedrooms	1,350 square feet

In order to qualify for these supplementary regulations, all of the above requirements and limitations must be met without exception.

(Code 1960, § 18-27; Ord. No. 1318, § 1, 8-10-93; Ord. No. 1437, § 2, 1-14-03)

Sec. 90-177. Yards generally, allowable projections.

(a) Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features may project not more than 24 inches into any required yard.

(b) Moveable awnings may be placed over doors or windows and may project not more than three feet into any required yard.

(c) In connection with a single-family or two-family residence, air conditioning equipment, a pool pump or other mechanical equipment may be located in a required side or rear yard, provided such equipment is at least 15 feet from any other single-family or two-family residence and is not visible from any street or waterway.

(d) In the RM-1 district on lots with less than 75 feet of frontage developed in accordance with the supplementary regulations provided in section 90-176(f), unenclosed balconies may extend into a required front yard not more than 2 1/2 feet.

(e) In all districts except the RT-1 district, open, unenclosed building entrance porches, platforms or paved terraces, not covered by a roof or canopy, and which do not extend above the level of the grade or entrance floor of the building, may extend or project into the required front or side yard not more than six feet.

(f) In the RT-1 district, open unenclosed balconies may extend into a required front, side or rear-yard not more than five feet. However, provided a special use permit is obtained in accordance with section 90-94, for the purpose of encouraging architectural creativity and break-up of building mass: for any "unbuilt" building area buildable as-of-right under the Code, 60 percent of such "unbuilt" area may be built, as open balconies, beyond the established five feet balcony setback. Further provided:

(1) The total area of all balconies built shall not exceed 65 percent of the total area of all balconies buildable as-of-right under the code; and

(2) Maximum extension of balconies shall not exceed three feet beyond the established five feet.

(g) Provided a special use permit is obtained in accordance with section 90-94, in the RT-1 district, for the purpose of creating architectural landmarks and icons and for the protection of pedestrian and vehicular traffic, a cantilevered canopy will be permitted in the required front yard, subject to the following:

- (1) The structure must be completely supported (cantilevered) from the main structure;
- (2) The structure must be transparent in nature with a solid to transparent material ratio of no more than 35 percent solid to 65 percent transparent;
- (3) The structure must not exceed 30 feet in width; and
- (4) The structure must not extend more than 20 feet in the required front yard.

(Code 1960, § 18-28; Ord. No. 1319, § 1, 8-10-93; Ord. No. 1370, § 1, 7-8-97; Ord. No. 1417, § 2, 7-10-01)

Sec. 90-178. Modification of front yard regulations.

(a) Except as otherwise provided in these regulations on through lots, the required front yards shall be provided on each street.

(b) In lieu of that stated in section 90-155, table I, the required front yard setback applicable to Lots 10 through 18, Block 2, and Lots 11 through 20, Block 3, Normandy Beach Subdivision, Second Amended, shall be ten feet from Collins Avenue.

(Code 1960, § 18-28; Ord. No. 1373, § 1, 7-8-97)

Sec. 90-179. Modification of side and rear yard regulations.

(a) The minimum width of side yards for libraries, churches and synagogues, recreational centers and other public and semipublic buildings located within a residential district shall be 15 feet.

(b) In all districts other than the RT-1, B-1 and CO-1 districts, the required side yard setbacks for corner lots adjoining a street, or north or south canals, shall be a minimum of ten feet from the adjacent street or canal.

(c) In the RS-2 district, no building shall be erected within 25 feet of the seawall on Point Lake nor within 50 feet of the sea wall on Biscayne Bay or on any lots in Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.

(d) In the RT-1 district, when a building exceeds a height of 30 feet, the width of each side yard shall be increased by one foot for every three feet of building height above 30 feet, provided, however, on a corner lot the minimum width of the side yard adjoining a street need not exceed 20 feet.

(e) Where a lot abuts an established alley, the depth of the rear yard shall be seven feet.

(f) In the RS-1, RS-2, RD-1, RD-2, and RM-1 district each side yard, for lots or parcels in excess of 50 feet in width, shall be a minimum of ten percent of the total width of such lot or parcel.

(g) When the first floor of a building in a RMO-1 district is used primarily for off-street parking purposes, a side yard setback of ten feet and a rear yard setback of five feet shall be permitted in lieu of that stated in section 90-155, table I, provided such setback area is well landscaped

and visual separation is provided between the parking areas and the adjacent properties. In addition, a single-stair tower may project into the Harding Avenue setback not more than 20 feet, provided that the total encroachment per floor does not exceed 500 square feet.

(Code 1960, § 18-30)

Sec. 90-180. Maximum frontage and depth of buildings.

The intent of the maximum frontage and depth of buildings regulations is to preserve the existing and historical scale and character of these zoning districts of moderate to high density lodgings apartments and motels with typical 50-foot and 75-foot frontage in the RD-1, RD-2 and RM-1 districts and beachfront apartments and hotels in the RT-1 district of 100-foot to 150-foot widths, accented with front courtyards, landscaped terraces and through view corridors, and to foster compatible scale relationships with abutting districts, so as to assure adequate light, air and open space within and adjacent to these zoning districts.

(1) In the RD-1 and RD-2 districts, building walls facing a public right-of-way shall not exceed 50 feet in length measured parallel to the public right-of-way. Maximum total building width or depth shall not exceed 100 feet. Adjacent segments of the building wall facing the public right-of-way shall vary in their setback by not less than 25 feet. Spaces (with building walls on three sides) formed by such setbacks or recesses in the building wall shall have a minimum width of 25 feet measured parallel to the public street right-of-way. The open areas created by such setback variations shall be substantially landscaped with over-story and under-story plant material further to reinforce the visual separation of building wall segments and reduce the scale of the overall structure.

(2) In the RM-1 district, building walls facing a public right-of-way shall not exceed 75 feet in length measured parallel to the public right-of-way. Maximum total building width or depth shall not exceed 150 feet. Adjacent segments of the building wall facing the public right-of-way shall vary in their setback by not less than 25 feet. Spaces (with building walls on three sides) formed by such setbacks or recesses in the building wall shall have a minimum width of 35 feet measured parallel to the public right-of-way. The open areas created by such setback variations shall be substantially landscaped with over-story and under-story plant material further to reinforce the visual separation of building wall segments and reduce the scale of the overall structure.

(3) The maximum frontage of any building on Collins Avenue (north to south) located in the RT-1 district shall not exceed 150 feet. No building in the RT-1 district may be erected, constructed or reconstructed with a depth in excess of 200 feet.

(4) All buildings so constructed shall meet all other requirements set forth for the district in which they are located.

(Code 1960, § 18-31; Ord. No. 1418, § 2, 7-10-01)

Sec. 90-181. Vision clearance.

As an aid to free and safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians, operators of vehicles and for property, for proposed construction hereafter, there shall be limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting on corner lots in all districts where front yards are required as follows:

(1) Such barriers to clear, unobstructed vision at corners of intersecting streets shall be limited to a height of not over two feet above the established elevation of the nearest curb, for a distance of 25 feet along both the front and side lot lines, measured from the

point of intersection, of the intersecting lot lines.

(2) It shall be unlawful for any person to plant or cause to be planted any tree, shrub or flowers or to place any structure in the public right-of-way or anywhere on public property without a permit from the town manager. The grade of the public right-of-way adjacent to private property shall not be altered except by written permission from the town manager.

(Code 1960, § 18-32; Ord. No. 1317, § 1, 6-8-93)

Sec. 90-182. Accessory buildings and structures.

(a) Accessory buildings which are not a part of the main building, although connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not exceed 12 feet in height, occupy more than 30 percent of the area of the required rear yard setback and provided it is located at least five feet from adjacent rear or interior side lot lines and ten feet from any street lot line. A screen enclosure shall be included in the computation of area occupied in a required rear yard but an open, uncovered pool, porch, patio or terrace shall not be included, provided such structures are located at least five feet from adjacent rear or interior side lot lines and ten feet from any street lot line.

(b) Accessory swimming pools, open and unenclosed, or covered by a screen enclosure, may occupy a required rear or side yard setback, provided they are not located closer than five feet to a rear or interior side lot line and not closer than ten feet from any street lot line.

(c) Tents and canvas cabanas for temporary shelter and not used for overnight sleeping or containing cooking facilities shall be considered as accessory buildings and subject to the same regulations as other accessory buildings.

(d) A detached garage shall not be remodeled and used as a part of the main building and an attached garage may not be remodeled and used as a part of the main building unless all required off-street parking spaces are provided elsewhere on the lot.

(e) A tool shed, the length and width of which does not exceed six feet by eight feet shall be permitted in a rear yard, provided, that it is located at least five feet from adjacent rear or interior side lot lines and ten feet from any street lot line. Such shed shall be anchored to a four-inch concrete slab; meet all requirements of the South Florida Building Code for hurricane force wind resistance; and otherwise meet all applicable requirements of the South Florida Building Code.

(Code 1960, § 18-33; Ord. No. 1371, § 1, 7-8-97)

Sec. 90-183. Fences, walls and hedges.

An ornamental fence, wall or hedge, not more than five feet in height, may project into or enclose any side or rear yard, except as otherwise provided herein. The height of such ornamental fence, wall or hedge shall be measured from the ground upon which it is located. No fence, wall or structure of any kind shall be constructed in a front yard, nor on a corner lot in a side yard, where such side yard abuts a public right-of-way. An ornamental hedge with a height of not more than three feet shall be permitted. Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of section 190-181 (vision clearance).

(Code 1960, § 18-34; Ord. No. 1401, § 1, 5-11-99)

Sec. 90-184. Marine structures.

The following regulations shall apply to boat docks, piers, and mooring piles, in any district:

(1) Projection of docks and piers into waterways beyond the waterway line, lot line, or established bulkhead lines shall be limited as follows, subject to final approval of the U.S. Corps of Engineers:

- a. Biscayne Bay: 20 feet.
- b. Indian Creek: 10 feet.
- c. Point Lake: 15 feet.

(2) Under no circumstances shall any dock or pier be constructed so as to project into any waterway for a distance equal to more than ten percent of the width of such waterway.

(Code 1960, § 18-35)

Sec. 90-185. Carport canopies.

Carport canopies may be constructed, if approved as a special exception under the provisions of section 90-92, in a front, side or rear yard setback in the RS-1, RS-2 and RD-1 districts. Such canopy may not exceed 20 feet in length, nor ten feet in width, in front yards of lots of less than 100-foot frontage. On lots of 100-foot frontage or more, or on corner lots where such canopy is to be outside the front yard setback, 20 feet by 20 feet may be allowed. A canopy 20 feet by 20 feet also may be allowed in the front yard setback of lots with 75-foot frontage or more, where such canopy is directly in front of the entrance to a two-car garage or, alternatively, over a two-car driveway, perpendicular to the street and located no less than five feet and no more than 30 feet from an interior side lot line. No canopy shall extend beyond a property line or shall be closer than five feet to the rear of the street curb, and supporting pipes shall be no closer than seven feet. The height of such canopy shall not exceed ten feet, measured from the ground level to the uppermost point of the cover. A front yard canopy shall be at least five feet from the side property line. A canopy shall at all times remain open on all four sides, if free standing, and open on three sides if attached to the main building. The area under a canopy must be entirely concreted or asphalted. Side openings shall be at least six feet, three inches, in height.

(1) Each applicant for a special yard exception shall submit with his application samples of the actual materials which will cover the canopy and a plot plan showing the location and dimensions of the canopy in relation to the lot lines and existing structures.

(2) The planning and zoning board shall adopt such aesthetic standards as to color and patterns of canopy materials as it may choose, and such standards shall be given to each applicant with the application for an exception.

(3) Any exception granted shall be for a period of three years only, but shall be automatically renewable at the beginning of each three-year period upon certification by the town manager that the canopy is structurally sound, and that the materials are in good condition (i.e. free from tears, holes, fading, rust, corrosion or mechanical damage).

(4) In addition to all provisions of the South Florida Building Code, the following construction standards for canvas-covered canopies are required and shall be complied with:

- a. No canopy carport shall be constructed except of canvas (or similar material) covered pipe. Framework shall be galvanized Schedule 40 pipe assembled either with Schedule 40 galvanized fittings or welded and joints painted with a liquid zinc compound. For a ten-foot by 20-foot canopy, uprights shall be of not less than 1 1/4-inch pipe; the perimeter shall be of not less than one-inch-pipe and the

rafters of not less than three-fourths-inch pipe. For a 20-foot by 20-foot canopy, the pipe sizes shall each be increased by one-fourth inch. All uprights shall be either lag-bolted into a concrete base or, if mounted in dirt, concreted at least one-foot deep with a safety tee at the bottom of the pipe. The design and the minimum size of structural members shall not be less than required to resist a 75-mile-per-hour wind with applicable shape factors. All fabric shall be designed for quick removal, which shall be required at a wind velocity in excess of 75 miles per hour.

b. The framework height shall be a maximum of ten feet and a minimum of seven feet above grade. No uprights shall be installed closer than two feet from the front lot line.

c. Covering material shall carry the California Fire Marshal's certificate of nonflammability. The material shall be attached to the framework by lacings only. The canvas side openings shall be not less than six feet three inches in height from grade.

(Code 1960, § 18-36; Ord. No. 1367, § 1, 12-10-96)

Sec. 90-186. Outdoor receiving and broadcasting antennae.

No outdoor receiving or broadcasting antenna, whether tower, pole, mast, disk, bowl, planar or similar structure, weighing more than 20 pounds shall be placed or erected in the town without a permit from the town. Only one such permit shall be issued for each main building on a lot.

(1) *Permit application.* The application for a permit shall be made to the town manager, accompanied by a site sketch, showing dimension and location of the antenna in relation to the site boundaries, setback lines and the existing structures on the site; and drawings by a licensed structural engineer, showing the method of permanently anchoring the antenna and listing the materials to be used in such anchoring. A landscaping or covering plan may be required when appropriate.

(2) *Fee.* The charge for a permit fee shall be \$100.00, except that if an antenna is for commercial use, the permit fee shall be \$500.00.

(3) *Construction provisions; yard placement.* All such antennae shall be constructed to withstand a 125-mile-per-hour wind and in accordance with the provisions of the South Florida Building Code and these regulations; and in no case shall they be placed within, or intruding into, the front or side yards of any property. In the RT-1 zoning district, Collins Avenue shall be deemed to be the front of the property.

(4) *Roof placement.* No antenna requiring a town permit shall be placed upon the roof of any structure except in the RT-1 zoning district.

(5) *Height limits--Tower, pole, mast.* For aesthetic reasons, tower, pole or mast antennae, except in the RT-1 zoning district, shall not be more than eight feet, at their highest point, above the highest point of the main structure's roof. However, such antennae for amateur broadcasting purposes (ham radio) may have antennae 35 feet in height from the average grade of the lot, or 50 feet in height, if the antennae is of a retractable type that can readily be lowered to 25 feet or less when not in use.

(6) *Height limits--Disk, bowl, planar.* Disk, bowl, planar or similar-shaped antennae in any zoning district, except RT-1, shall not exceed a total of 12 feet in height above the ground, including supporting structures; and the diameter shall not exceed ten feet on lots up to and including 75 feet in width. On lots more than 75 feet in width, such antennae shall not exceed a total of 14 feet in height, including supporting structures, above the ground; and the diameter shall not exceed 12 feet. All such disk, bowl, planar

or similar-shaped antennae shall be sufficiently landscaped or covered so as to obscure the antennae from view from surrounding and adjacent properties.

(Code 1960, § 18-37)

Sec. 90-187. Construction adjacent to bulkhead lines.

(a) Ocean bulkhead lines are established in section 14-86 and the following regulations shall control construction adjacent thereto:

(1) No permit shall be issued for the construction of any building or other structure of any nature whatsoever which shall be closer than 20 feet to the ocean bulkhead line.

(2) No permit shall be issued for the repair, extension, alteration or replacement of any structure lying within 20 feet of the ocean bulkhead line.

(b) Indian Creek bulkhead lines are established in section 14-101 and the following regulations shall control construction adjacent thereto:

(1) *Permits required.* It is hereby declared to be unlawful for any person to construct or erect any bulkhead, sea wall or other shore protection work along the shore line of Indian Creek in the town without first obtaining a permit therefor from the town manager.

(2) *General limitations.* No permit shall be issued for construction, repair, alteration, extension or replacement of any structure of any nature whatsoever other than a bulkhead, seawall or shore protection work as mentioned in the preceding section, or marine structure as mentioned in subsection 90-184(1), which shall be closer than 20 feet to the Indian Creek bulkhead line. Provided however, that a swimming pool may be constructed no closer than 15 feet to the Indian Creek bulkhead line.

A swimming pool construction landward of less than 20 feet of the Indian Creek bulkhead line shall be thoroughly investigated by a registered structural engineer known to the building official to be qualified to evaluate retaining walls, seawalls, bulkhead or other shore protective structures. The structural engineer shall certify that said construction will not compromise the structural capacity of the adjacent retaining wall, seawall, bulkheads or other shore protective structure, and such construction will allow continued maintenance of said retaining wall, seawall or bulkhead, including anchors and soil supports. A certification shall be included on the drawings that the proposed construction has been designed in accordance with the South Florida Building code and all applicable laws. Upon project completion the registered engineer shall submit to the building official a letter attesting that the construction of the improvements has been observed and is in accordance with Section 307.2 of the South Florida Building Code and all applicable local ordinances. The letter shall be signed and have the impressed seal of the registered structural engineer, as applicable.

No permit shall be issued for the construction of a bulkhead, seawall or other shore protection work, unless the plans and specifications of the bulkhead, seawall or other shore protection work show that the bulkhead, seawall or other shore protection work is so located as not to extend outward beyond the Indian Creek bulkhead line as heretofore established, and shall show that the bulkhead, seawall or other shore protection work will be constructed of precast concrete slab or reinforced concrete and shall have an elevation of not less than plus five feet above mean low water, U.S. Engineering Department Biscayne Bay Datum, and shall be of sufficient depth below mean low water to ensure the retention of all fill or soil on the landward side thereof, and of sufficient weight and strength to withstand hurricanes, windstorms and high tide waters and waves incident thereto.

(c) All structures on Biscayne Bay and Point Lake shall be required to obtain a permit and

meet the setbacks and general limitations established in subsection (b) of this section (Indian Creek bulkhead lines).

(d) All applications for building permits in the RS-1, RS-2 and RT-1 districts shall include a certified survey showing the point of intersection of the Indian Creek or ocean bulkhead line or other regulated seawall line with the adjacent side lot lines and/or street lot lines of the property on which construction is proposed, together with a certificate of a registered engineer or surveyor indicating that all of the work proposed to be done under the permit complies with all provisions of this section.

(e) The owner of the property on which or adjacent to which any such seawall, bulkhead or other shore protection work shall be constructed, in accordance with a permit issued in accordance with the provisions of this section, shall furnish to the town manager a certificate signed by the owner and the contractor doing the work, that such seawall or bulkhead has been erected or constructed in strict accordance with the terms of such permit and the plans and specifications submitted for such work.

(Code 1960, § 18-38; Ord. No. 1273, § 1, 11-12-91; Ord. No. 1376, § 1, 9-9-97)

Sec. 90-188. Paving front yards in single-family and two-family districts.

Front yards in the RS-1, RS-2 and RD-1 districts shall not be more than 50 percent paved over with any type of material that is not readily permeable by rainwater and groundwater. Not less than 30 percent of the front yard shall be landscaped. No front yard shall be accessible by vehicles from a public street by more than two curb cuts. No curb cut shall be located within five feet of a side lot line.

(1) Where there is a single curb cut for any one property, the curb cut shall not be more than 18 feet in width.

(2) Where there are two curb cuts for any one property, the curb cuts shall not be more than 12 feet in width, and there shall be at least 12 feet between curb cuts. Where a driveway is installed with two curb cuts, a landscaped island containing at least 60 square feet shall be provided between the curb cuts in the front yard area, extending from the front property line to the paved area.

(3) On corner lots where vehicular access and off-street parking are provided in a side yard, these same regulations shall apply also to the side yard. Such side yards shall not be more than 50 percent paved over with any type of material that is not readily permeable by rainwater and groundwater and not less than 30 percent of the side yard shall be landscaped.

(Code 1960, § 18-39)

Sec. 90-189. Outdoor lighting.

To assure that outdoor lighting is in harmony with the site architecture design, the adjacent area and the neighborhood; and to prevent a nuisance to adjacent properties or creation of traffic hazards on adjacent streets by reason of glare, reflection or the like; outdoor lighting for areas such as but not limited to, off-street parking, security or any other purposes, shall be permitted under the following conditions:

(1) Plans indicating the location of the lighting fixtures; type of lights, height of lights and levels of illumination; shade, type and height of lighting poles; and bases, deflectors and beam directions shall be submitted to the town manager for approval.

(2) Lighting fixtures and lighting poles, including mounting bases, shall not exceed 18 feet in height from grade, shall be of decorative nature and shall be in harmony with the

site architecture design, the adjacent area and the neighborhood. Decorative lighting poles and bases shall be constructed of anodized aluminum, pigmented concrete, fiberglass or other materials of similar characteristics as approved by the town manager.

(3) Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one-half foot-candle (vertical) and one-half foot-candle (horizontal) illumination on adjacent properties. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered architect or engineer is provided to the town manager, certifying that the installation has been field-checked and meets the requirements set forth above.

(4) The town manager may issue a permit for such proposed outdoor lighting, if, after review of the plans and after consideration of the design characteristics of the lighting fixtures and lighting poles and bases, they are found to be in harmony with the site architecture design, the adjacent area and the neighborhood, will be deflected, shaded and focused away from adjacent properties; and will not be a nuisance to adjacent properties and traffic.

(5) All of the foregoing installations shall conform to the South Florida Building Code.

(Code 1960, § 18-40; Ord. No. 1381, § 1, 2-10-98)

Sec. 90-190. Miscellaneous elevations for seawalls, and groins.

(a) The elevation of all ocean bulkheads or sea walls shall be plus 12 feet above the mean low water.

(b) The elevation for the top of shore end of all groins or other shore protective work shall be plus five feet above mean low water.

(c) The elevation for the top of seaward end of all groins and other shore protective work shall be plus 2 1/2 feet above mean low water.

(d) The elevation of the top of all seawalls fronting on the waters of Biscayne Bay, Indian Creek and Point Lake shall be plus five feet above mean low water.

(Code 1960, § 18-41)

Sec. 90-191. Combined lots.

Where two or more parallel adjoining and abutting lots under a single ownership are used, the exterior property lines so grouped shall be used in determining setback requirements. Provided, however, that no structure shall be constructed, altered or maintained on a single lot in any zoning district which does not conform with the setback requirements applicable to such lots, irrespective of the common ownership of abutting lots, unless and until a restrictive covenant running with the title to such lots, assuring obedience to setback requirements in a form acceptable to the town attorney, shall first have been recorded in the public records of Dade County, Florida. Joinder in such a restrictive covenant must be effected by all interested parties, including, but not limited to, dower, lienholders, mortgagees, and all others claiming any right, title or interest in and to such real property.

(Code 1960, § 18-42)

Sec. 90-192. Boat storage.

No more than one boat, not over 20 feet in length may be parked temporarily on any lot in a RS-1 or RS-2 district subject to the following conditions:

- (1) Boats and places of parking shall be kept in a clean, neat and presentable condition.
- (2) No major repairs or overhaul work shall be made or performed on the premises.
- (3) Boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (4) The place of parking shall be parallel with and immediately adjacent to the driveway and shall be within the required setback area, and no parking of boats shall take place on any public right-of-way.

(Code 1960, § 18-43)

Sec. 90-193. Temporary storage of campers and house trailers.

No house car, camp car, camper or house trailer, nor any vehicle or part of a vehicle designed or adapted for human habitation by whatever name known, whether such vehicle moves by its own power or by power supplied by a separate unit, which exceeds 20 feet in length or eight feet in height, shall be kept or parked on public streets or public property anywhere within the town, nor on private property in the RS-1 or RS-2 district, for more than 24 hours within a calendar week beginning at 12:01 a.m. Sunday and ending at 12:00 midnight on Saturday. No house car, camp car, camper, house trailer, or any similar vehicle shall be attached to any public or private external source of electricity, water, gas or sanitary sewer at any time, except that an electrical connection may be made for the sole purpose of recharging a vehicle's storage batteries.

(Code 1960, § 18-44)

Sec. 90-194. Landscaping requirements.

- (a) All front yard areas, exclusive of required driveways and entrance ways (but never less than 50 percent of the entire front yard area) shall be landscaped and be readily permeable by rainwater and groundwater, except as provided in section 90-188. Where bricks or pavers of any kind are utilized, openings in them or spaces between them shall not be considered in the 50 percent landscape requirement.
- (b) Rear yard areas in the RS-1, RS-2 and RD-1 districts, shall not be less 40 percent landscaped and be readily permeable by rainwater and groundwater.
- (c) All off-street parking areas, and all lands upon which vehicles traverse the property as a function of its primary use, including but not limited to, activities of a drive-in nature, such as, but not limited to, filling stations, grocery and dairy stores, banks, restaurants and the like, shall conform to the landscaping requirements of Dade County Code Section 18A as same shall be amended from time to time.
- (d) In the RT-1 district, in lieu of subsection (c), for the purpose of creating shade, screening and architectural landscaping ornamentation, a trellis structure will be permitted within the internal side setback area subject to the following:
 - (1) The structure's purpose is to support landscaping material.
 - (2) The structure must be completely open on all four sides. However, the side abutting the adjacent property may contain virtually transparent plant-supporting material.
 - (3) The structure shall not be roofed.
 - (4) The top of the structure must be open with an open to solid ratio of at least 70 percent open to 30 percent solid.

(5) The structure shall not exceed ten feet in height. The vertical supports must not exceed a slenderness ratio of ten feet to eight inches in thickness and may not be less than 12 feet apart. The structure may not exceed 35 percent of the internal side yard area.

(e) Landscaping plans shall be submitted as required by subsection 90-37(c)(3), and shall be subject to the approval of the town manager with the recommendation of the planning and zoning board.

(Code 1960, § 18-45; Ord. No. 1274, § 1, 11-12-91; Ord. No. 1345, § 1, 10-11-94; Ord. No. 1419, § 2, 7-10-01)

Sec. 90-195. Prohibited plants, trees, weeds, shrubs and vegetation.

It shall be unlawful and shall be a violation of this Code for any person to plant, replant, permit to be planted or permit to be replanted any of the following plants, trees, weeds, shrubs and vegetation:

TABLE INSET:

Scientific name	Common name
<i>Acacia auriculiformis</i>	earleaf acacia
<i>Aeginetia indica</i>	aeginetia
<i>Aeginetia</i> spp., all	aeginetia
<i>Ageratina adenophora</i>	crofton weed
<i>Albizia julibrissin</i>	mimosa tree
<i>Albizia lebbek</i>	woman's tongue
<i>Alectra fluminensis</i>	yerba de hierro
<i>Alectra</i> spp., all	yerba de hierro
<i>Alternanthera philoxeroides</i>	alligator weed
<i>Alternanthera sessilis</i>	sessile joyweed
<i>Ardisia crenata</i>	coral ardisia
<i>Ardisia elliptica</i>	shoebutton ardisia
<i>Asphodelus fistulosus</i>	onionweed
<i>Avena sterilis</i>	animated oat
<i>Azolla pinnata</i>	Asian mosquito fern
<i>Bischofia javanica</i>	bishop wood
<i>Borreria alata</i>	broadleaf buttonweed
<i>Broussonetia papyrifera</i>	paper mulberry
<i>Carthamus oxycantha</i>	wild safflower
<i>Casuarina</i> spp.	Australian pines
<i>Chrysopogon aciculatus</i>	pilipiliula
<i>Cinnamomum camphora</i>	camphor tree
<i>Colocasia esculenta</i>	taro
<i>Colubrina asiatica</i>	latherleaf
<i>Commelina benghalensis</i>	Benghal dayflower
<i>Crassula helmsii</i>	swamp stonecrop

<i>Crupina vulgaris</i>	common crupina
<i>Cupaniopsis anacardioides</i>	carrotwood
<i>Cuscuta japonica</i>	Japanese dodder
<i>Cuscuta megalocarpa</i>	bigfruit dodder
<i>Cuscuta potosina</i>	globe dodder
<i>Cuscuta</i> spp. except natives	exotic dodder vines
<i>Dalbergia sissoo</i>	Indian rosewood
<i>Digitaria abyssinica</i>	couch grass
<i>Digitaria velutina</i>	velvet finger grass
<i>Dioscorea alata</i>	white yam
<i>Dioscorea bulbifera</i>	air potato
<i>Drymaria arenarioides</i>	alfombrilla
<i>Eichhornia azurea</i>	anchored waterhyacinth
<i>Eichhornia</i> spp., all	waterhyacinths
<i>Emex australis</i>	three-cornered jack
<i>Emex spinosa</i>	devil's thorn
<i>Enterolobium contortisliquum</i>	ear-pod tree
<i>Eucalyptus</i> spp. (1 or more)	eucalyptus trees
<i>Euphorbia prunifolia</i>	painted euphorbia
<i>Fatoua villosa</i>	hairy crabweed
<i>Festuca arundinacea</i>	tall fescue
<i>Festuca elatior</i>	tall fescue
<i>Festuca ovina</i>	sheep fescue
<i>Festuca pratensis</i>	meadow fescue; rye grass
<i>Festuca rubra</i>	red fescue
<i>Festuca</i> sp.	fescue
<i>Ficus altissima</i>	false banyan
<i>Ficus benghalensis</i>	banyan tree
<i>Ficus benjamina</i>	weeping fig
<i>Ficus carica</i>	edible fig
<i>Ficus decora</i>	rubber tree
<i>Ficus nitida</i>	Cuban laurel
<i>Ficus religiosa</i>	bo tree
<i>Flacourtia indica</i>	governor's plum
<i>Flueggea virosa</i>	flueggea
<i>Foeniculum vulgare</i>	fennel
<i>Fragaria chiloensis</i> var. <i>ananassa</i>	strawberry
<i>Fraxinus uhdei</i>	shamel ash
<i>Galega officinalis</i>	goatsrue
<i>Grevillea robusta</i>	silk oak
<i>Heracleum mantegazzianum</i>	giant hogweed
<i>Hibiscus tiliaceus</i>	mahoe

<i>Hydrilla verticillata</i>	hydrilla
<i>Hygrophila polysperma</i>	Miramar weed
<i>Imperata brasiliensis</i>	Brazilian satintail
<i>Imperata cylindrica</i>	cogon grass
<i>Ipomoea aquatica</i>	Chinese waterspinach
<i>Ipomoea fistulosa</i>	shrub morning glory
<i>Ipomoea triloba</i>	little bell morning glory
<i>Ischaemum rugosum</i>	murain grass
<i>Jacaranda acutifolia</i>	jacaranda
<i>Jasminum dichotomum</i>	Gold Coast jasmine
<i>Koelreuteria elegans</i>	golden rain tree
<i>Lagarosiphon major</i>	oxygen weed
<i>Lagarosiphon</i> spp., all	African elodeas
<i>Lantana camara</i>	shrub verbena
<i>Leptochloa chinensis</i>	Asian sprangletop
<i>Leucaena leucocephala</i>	lead tree
<i>Ligustrum sinense</i>	Chinese privet
<i>Limnocharis flava</i>	Sawa flowering-rush
<i>Limnophila sessiliflora</i>	ambulia
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lycium ferocissimum</i>	African boxthorn
<i>Lygodium japonicum</i>	Japanese climbing fern
<i>Lygodium microphyllum</i>	Old World climbing fern
<i>Lythrum salicaria</i>	purple loosestrife
<i>Manilkara zapota</i>	sapodilla
<i>Melaleuca quinquenervia</i>	melaleuca
<i>Melastoma malabathricum</i>	Indian rhododendron
<i>Melia azederach</i>	Chinaberry tree
<i>Mikania cordata</i>	mile-a-minute vine
<i>Mikania micrantha</i>	mile-a-minute vine
<i>Mimosa invisa</i>	giant sensitive plant
<i>Mimosa pigra</i>	cat-claw mimosa
<i>Monochoria hastata</i>	monochoria
<i>Monochoria vaginalis</i>	Asian pickerel weed
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Nassella trichotoma</i>	serrated tussock
<i>Nechamandra alternifolia</i>	Indian elodea
<i>Neyraudia reynaudiana</i>	Burma reed
<i>Opuntia aurantiaca</i>	jointed prickly pear
<i>Orobanche cernua</i>	nodding broomrape
<i>Orobanche crenata</i>	bean broomrape
<i>Orobanche minor</i>	hellroot

<i>Orobanche ramosa</i>	hemp broomrape
<i>Orobanche riparia</i>	river broomrape
<i>Orobanche</i> spp. except native (<i>O. uniflora</i>)	broomrape
<i>Oryza longistaminata</i>	red rice
<i>Oryza punctata</i>	red rice
<i>Oryza rufipogon</i>	wild red rice
<i>Ottelia alismoides</i>	duck-lettuce
<i>Paederia cruddasiana</i>	sewer vine
<i>Paederia foetida</i>	skunk vine
<i>Paspalum scrobiculatum</i>	Kodo-millet
<i>Pennisetum clandestinum</i>	kikuyu grass
<i>Pennisetum macrourum</i>	African feather grass
<i>Pennisetum pedicellatum</i>	kyasuma grass
<i>Pennisetum polystachyon</i>	mission grass
<i>Pistia stratiotes</i>	water-lettuce
<i>Pontederia rotundifolia</i>	tropical pickerelweed
<i>Prosopis</i> spp. except natives	mesquite
<i>Prosopis</i> spp., all	mesquite
<i>Pueraria montana</i>	kudzu
<i>Rhodomyrtus tomentosa</i>	downy rose-myrtle
<i>Rottboellia cochinchinensis</i>	itch grass
<i>Rubus fruticosus</i>	European bramble blackberry
<i>Rubus moluccanus</i>	Asian wild raspberry
<i>Saccharum spontaneum</i>	wild sugarcane
<i>Sagittaria sagittifolia</i>	Eurasian arrowhead
<i>Salsola vermiculata</i>	wormleaf salsola
<i>Salvinia auriculata</i>	giant salvinia
<i>Salvinia biloba</i>	giant salvinia
<i>Salvinia herzogii</i>	giant salvinia
<i>Salvinia molesta</i>	giant salvinia
<i>Sapium sebiferum</i>	Chinese tallow tree
<i>Scaevola taccada</i>	beach naupaka
<i>Schinus terebinthifolius</i>	Brazilian pepper tree
<i>Setaria pallidefusca</i>	cattail grass
<i>Solanum tampicense</i>	wetland nightshade
<i>Solanum torvum</i>	turkeyberry
<i>Solanum viarum</i>	tropical soda apple
<i>Sparganium erectum</i>	exotic bur-reed
<i>Stratiotes aloides</i>	water-aloe
<i>Striga asiatica</i>	Asiatic witchweed
<i>Striga densiflora</i>	denseflower witchweed
<i>Striga gesnerioides</i>	cowpea witchweed

<i>Striga hermonthica</i>	purple witchweed
<i>Syzygium cumini</i>	Java plum
<i>Syzygium jambos</i>	rose-apple
<i>Thespesia populnea</i>	seaside mahoe
<i>Trapa</i> spp., all	water chestnuts
<i>Tridax procumbens</i>	coat buttons
<i>Urochloa panicoides</i>	liverseed grass
<i>Vossia cuspidata</i>	hippo grass
<i>Wedelia trilobata</i>	wedelia

(Ord. No. 1434, § 1, 11-12-02)

Secs. 90-196--90-205. Reserved.

Sec. 90-196. Emergency power generators.

The following requirements apply to permanent and temporary emergency power generators located in residential zoning:

- (1) *Permit*: The property owner must obtain a building permit for the installation of an emergency power generator.
 - a. The town shall review all such permit applications to ensure such installations minimize the visual and acoustic impact on adjacent properties.
 - b. Special attention shall be paid to the placement of the generator, the use of sound attenuating materials, and the reasonable containment of sounds and exhausts, which will be created by the operation of any emergency power generator. The preferred placement shall be as follows: For all new construction, permanent emergency generators must be placed in the rear of the property; for residential structures existing as of September 1, 2006, permanent generators may be placed in the front of the house if placement in the rear is not feasible. In no instance shall generators be placed in the setbacks.
- (2) *Screening*: Emergency power generators that are not located within, or completely screened by a building, shall be screened from view when adjacent to or visible from a public right-of-way or from adjacent parcels of property. Screening may include the use of fences, walls, or hedges, or a combination thereof and such screening shall meet all relevant code requirements.
- (3) *Placement of temporary generators*: Temporary emergency power generators shall be placed outdoors at least ten feet from any opening or window.
- (4) *Maintenance cycle*: The generator's maintenance cycle run shall be permitted a maximum of once a week between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday only, and shall continue for no more than the manufacturer's recommended duration, but not to exceed 30 minutes per cycle.
- (5) *Allowed usage*: Emergency power generators may only be operated for non-maintenance purposes whenever there is a power outage. Generators may not be used as a substitute for electrical power.
- (6) *Code enforcement and removal*: Generators, which are in violation of the provisions of this section, shall be subject to immediate removal and code enforcement action.

(Ord. No. 1462, § 1, 9-12-06)

DIVISION 2. SIGNS**Sec. 90-206. General and miscellaneous provisions.**

(a) *Use of streets, waterways, sidewalks and other public property.* Except as otherwise authorized by the town commission, no sign of any type shall be suspended across any public street, alley or waterway; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any curb, sidewalk, tree, light standard, utility pole, hydrant, traffic signal device, street sign and its pole, bridge, wall, or any other structure, which is within the property lines of any street, alley, waterway or other public property within the town.

(b) *Use of vacant lots, unoccupied buildings or temporary structures.* Except as provided by section 90-208, no sign of any type shall be suspended across any vacant lot, unoccupied building or temporary structure; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any vacant lot, unoccupied building or to any temporary structure within the town.

(c) *Removal of sign upon cessation of business.* Any sign previously associated with a vacated premises shall either be removed from the premises by the owner or lessee not later than six months from the time such activity ceases to exist, or such sign shall be altered or resurfaced by the owner or lessee within the same six-month period, so that the sign no longer displays letters, numerals, symbols, figures, designs or any other device for visual communication that pertains to the activity formerly associated with the vacated premises. No occupational license shall be issued for a new business until all signs associated with the former business have been removed.

(d) *Pest control or warning signs.* All such signs shall be displayed prominently on the front lawn of property requiring this service. Signs shall not exceed a size of eight inches by ten inches. The printed wording shall read horizontally only and shall contain only such language as is required by law or by reasonable safety precautions and a statement of the antidote to the insecticide used. The word "WARNING" shall occupy one-half of the sign and the name and address of the company performing the service only one-fourth of the sign, it being intended that the word "WARNING" shall be most prominent. Further, it shall be required that such sign be removed from the premises no later than 24 hours after the warning is no longer required.

(e) *Definition of frontage.* For the purpose of determining total sign area, running foot of frontage shall include that side of the building or lot that faces on a public street. When the building or lot is on a corner, the footage of each street shall be included in determining the total allowable frontage.

(Code 1960, § 18-46; Ord. No. 1439, § 1, 5-13-03)

Sec. 90-207. Prohibited signs.

(a) No sign shall be erected, constructed, or affixed in violation of the provisions of these regulations, and any sign not specifically provided for and permitted by these regulations shall be prohibited.

(b) No billboard, temporary sign or sandwich sign shall be erected or maintained within the corporate limits of the town, except as permitted under the provisions of section 90-208.

(c) No sign advertising goods or services not sold or performed on the premises shall be erected or maintained within the corporate limits of the town.

- (d) No sign shall be constructed, erected, used, operated or maintained which simulates, copies, or implies any official traffic signal or police caution device.
- (e) No permit shall be issued for any sign which proposes to display any obscene matter, or contains wording which violates any federal, state or county statute, ordinance or rule and it shall be unlawful for any person to display upon any wall or other advertising structure any matter which is obscene or wording which violates any federal, state or county statute, ordinance or rule.
- (f) No sign shall be constructed, erected, used, operated or maintained so as to display intermittent lights, to move or revolve.
- (g) No sign shall be constructed, erected, used, operated or maintained which contains wording which constitutes fraudulent or misleading advertising.
- (h) No sign shall have spinning devices, or strings of spinning devices, or other similar devices.
- (i) Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure, shall be prohibited.
- (j) Roof signs shall be prohibited.
- (k) Pennants, banners, streamers, balloons and all other fluttering, spinning or similar type signs and advertising devices are prohibited, except for national flags and flags of political subdivisions of the United States.

(Code 1960, § 18-47)

Sec. 90-208. Temporary signs.

(a) *"For Sale" and "For Lease" signs.*

(1) *Unimproved property.* Not more than one "For Sale," "For Lease," or similar sign shall be placed upon any unimproved property. Such sign shall not exceed 18 inches by 24 inches in size. All such signs shall be constructed in the following manner: The face of the sign shall be either wood, tempered masonite, metal, or any other sound and safe material approved by the town manager, and shall be securely fastened to a wood or metal stake of sufficient strength to support such sign in a manner not to constitute a hazard to the welfare of the community during a hurricane, and shall not exceed 36 inches in overall height above the adjacent ground. Approval and fees for the erection of such signs shall be in the manner prescribed in subsection (3) of this subsection.

(2) *Improved property.* Not more than one "For Sale," "For Lease," or similar sign shall be placed upon any improved property. Such sign shall not exceed 18 inches by 24 inches in size. All signs erected on the exterior of a building or placed within the ground outside of a building shall be constructed in the following manner: The face of the sign shall be either wood, tempered masonite, metal, or any other sound and safe material approved by the town manager, and shall be securely fastened to a wood or metal stake of sufficient strength which shall be placed securely in the ground. Such signs shall be erected in such a manner as to not constitute a hazard to the welfare of the community during a hurricane. In lieu thereof, a single paper sign not more than 18 inches by 24 inches in size may be placed within the window of any building on the premises which is for sale or lease. In addition, portable "Open For Inspection" signs, not over two feet by three feet in size, may be displayed within the property lines only while the owner or agent of the owner is actually upon the premises. Approval and fees for the erection of such signs shall be in the manner prescribed in subsection (3) of this subsection.

(3) *General requirements.* Notwithstanding anything contained in this Code

inconsistent herewith, there shall not be displayed, constructed, reconstructed, situated, maintained or erected upon any lot or parcel of land within the town or upon the premises located thereon, any "For Sale," "For Lease," "Open For Inspection," or kindred sign, unless such sign shall meet the following requirements:

- a. No such sign shall be displayed, constructed, reconstructed, situated, maintained or erected by any one other than the owner or lessee of the lot, parcel of land or premises, or the duly authorized agent of such owner or lessee, and then only on the lot or premises referred to in such sign as herein set forth.
- b. There may be only one such sign on the lot or parcel of land, or on the improvements thereon, regardless of the size of such lot, parcel or improvements, except for "Open For Inspection" signs as described in this subsection, and such sign may contain only one of the following designations, to wit: "For Sale," "For Lease," "For Sale or Lease," "For Rent," or "Available." If duly qualified and applicable, the name of the real estate broker or realtor as the same is registered with the Florida Real Estate Commission, in letters not exceeding one inch in height with a designation following such name as being either (a) "realtor" or (b) "broker," may appear on such sign. The telephone number of the owner or lessee, or a duly qualified realtor or broker as above set forth, only, may appear on such sign except, however, that the telephone number of an authorized agent may be contained or placed thereon, upon written request of the owner or lessee duly filed with and approved by the town manager. The above designations and telephone numbers are the only permissible inscriptions on signs described herein. The provisions of this subsection shall be applicable in all zoning districts.
- c. Such sign shall not be nearer than five feet from any property line if placed upon vacant property, and if placed on land improved by a building it shall not be placed nearer than five feet from any property line, unless the main wall of the building is less than five feet from a front or side property line, in which case the sign may be placed in or upon a front or side door or window of the building; if there be a wall upon the property line, then such sign may be placed against such wall.
- d. Permits for such signs may be issued by the town manager upon application by the owner or lessee or their duly authorized agent appearing in person with drawings describing such sign and giving proof of such ownership, tenancy, or agency, and all such permits shall automatically expire within six months from the date of issuance. The town manager shall issue a sticker which shall be placed on the bottom of the face of each sign, which shall indicate the date the permit expires and the permit number.
- e. A fee of \$2.00 shall be charged for a permit for the erection, construction or maintaining of a sign on any lot or parcel of land or premises and reapplication for a permit may be made every six months.
- f. All signs referred to in subsections (1) and (2) of this subsection shall be in plain black lettering on white background with no iridescent lettering or lighting and shall be of neat professional appearance.

(b) *Construction signs.* There shall be only one signboard erected on each construction site and all signs for the project must be placed on this signboard. Signboards may include the names of the parties involved in the design, construction and financing of the project. In addition, multiple-family buildings may have a second sign with the name of the project and the unit types and commercial buildings may have a sign indicating the name of the project and the names of tenants, and either of these signs may include a rendering of the proposed project. Under no circumstances shall any sign on a construction site indicate any type of price

information and no construction signs shall be permitted for construction projects whose duration is less than 30 days.

(1) Except in RS-1 and RS-2 districts, the total allowable sign area for all construction signs on a single site shall be limited to one square foot of sign area for every two feet of lot frontage with no single signboard or other project sign exceeding 50 square feet in total area, exclusive of any renderings. In the RS-1 and RS-2 districts the total allowable sign area for the allowed signboard shall not exceed four square feet.

(2) Construction signs may be erected and maintained at any time after the issuance of a building permit and shall be removed prior to the issuance of a certificate of occupancy.

(c) *Political signs.* Signs concerning the election of candidates for public office or public questions are permitted in RS-1, RS-2, RD-1, RD-2 and B-1 zoning districts under the following conditions:

(1) No political sign shall be placed on any public property, building, right-of-way or easement, at any time.

(2) Signs may not be erected or displayed more than 60 days prior to the actual primary or general election at which the candidacy or issue being advertised is decided and all such signs shall be removed within seven days after the aforementioned election.

(3) No more than one sign for each candidate or issue is permitted on any developed or undeveloped property under single ownership or tenancy.

(4) In the RS-1, RS-2, RD-1 and RD-2 districts, signs may be displayed outdoors, provided each sign shall not exceed 16 inches by 22 inches in size and 36 inches in height above grade.

(5) Such signs may not be closer than ten feet from any lot line. If such sign is placed in a window on improved property, it shall be in lieu of the outdoor sign as described above. In the B-1 district, outdoor signs are prohibited, but signs not exceeding 16 inches by 22 inches may be displayed in a window or glass door provided, however, that the total area of all signs displayed, whether political or otherwise, does not exceed 25 percent of the glass area of such window or door.

(Code 1960, § 18-48)

Sec. 90-209. Signs permitted within specific districts.

(a) *Signs in RS-1, RS-2 and RD-1 residential districts.*

(1) Mailboxes and street numbers serving the main building or structure on a lot or one sign indicating the name of the occupant of a residential structure may be erected on a lot in a RS-1, RS-2 or RD-1 district. However, the total sign area on any single lot in a RS-1 or RS-2 district shall not exceed two square feet and no single sign may be over one square foot in size. In the RD-1 district the total sign area on any single lot shall not exceed 12 square feet and no single sign may be over six feet in size.

(2) Private directional signs, not exceeding one square foot in area, may be erected in the RS-1, RS-2 and RD-1 districts provided that not more than two of these signs are placed on any single lot or parcel.

(3) Ground-mounted signs may be erected in the RD-1 district only, provide such signs are setback at least five feet from all property lines and no portion of any such sign shall be permitted to project within this five-foot setback area. Building mounted signs shall also be permitted in the RD-1 district as long as they do not project more than three feet

beyond the wall of the building to which they are attached.

(4) No portion of any ground-mounted sign shall be more than five feet above the ground. No portion of any building-mounted sign shall project above the ridge line of any pitched roof or the parapet surrounding any flat roof of the building to which it is attached.

(b) *Signs in RD-2, RM-1, RMO-1, RT-1 and CO-1 zoning districts.*

(1) *Area.*

a. The total area of exterior signs for any building in a RD-2, RM-1, RMO-1 or RT-1 district shall be limited to one square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than 25 feet, total sign area of up to a maximum of 25 square feet shall be permitted. In no case, however, shall total sign area on any single operating enterprise exceed 150 square feet, except as provided in subsection (2)c. of this subsection. For apartment houses total signage shall not exceed 75 square feet and no single sign shall exceed 50 square feet.

b. Such signs shall be attached to the main facade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two feet, or shall be erected on a metal pole or reinforced concrete post, provided that no part of such sign shall project over a dedicated street or sidewalk. Any sign in need of replacement shall conform with this section.

(2) *Approved word content.* Signs may include only the following:

a. Trade name of establishment.

b. Nature of business, services rendered or products sold on premises, except as provided for in subsection (2)c. of this subsection.

c. The total allowable area for all supplemental signs for any establishment hereunder reading "Vacancy," "Private Beach," "Swimming Pool," "Cabanas," "Office," "Air Conditioning," "Cocktail Lounge," "Coffee Shop," "Dining Room," "Restaurant" and other such wording shall be limited to eight square feet for each main building, and such sign area shall not be included in computing the maximum sign area for the lot. In permitting the advertising by visible signs from the outside of buildings or structures presently zoned so as to permit the uses described herein, such signs shall be dignified in character, shall be restricted to the wording described above, and no single sign shall exceed three square feet in size; except, in the RT-1 district, a hotel or motel with a restaurant may display a supplemental sign, not to exceed five square feet in size, containing the name of the restaurant. Any such sign shall be included in the total eight feet limitation.

(3) *Prohibited word content.* Signs may not include the following:

a. Any reference to rates.

b. Identification of a business conducted within hotels, apartment houses or similar structures, other than those permitted under supplemental signs, as described under subsection (2)c. of this subsection, is not to be advertised by any sign visible from the outside of such building or structure in which such business is located.

(4) *Miscellaneous.*

a. A sign not larger than 16 inches in width and five inches in height, made of

plastic or metal, may be affixed to the wall of buildings in these districts stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.

(5) *Location.*

a. No sign shall be erected so that any portion thereof shall project over a dedicated street, alley or sidewalk or so that any portion shall project more than five feet from any main building wall.

b. Subject to the provisions of subsection (1) of subsection (b) of this section, one sign may be erected on a metal pole with an area of not more than 45 square feet, including any supplemental signs; provided that no part of such sign shall project over a dedicated street, alley or sidewalk.

c. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located.

d. Signs not over four square feet in size may be erected at each exit or entrance of parking lots serving buildings in these districts, and such signs may be illuminated by indirect lighting only. Lettering on these signs shall be limited to the name and address of the apartment or hotel, the word "Parking," and the words "For Guests Only" or "Private Parking," and designation as to whether it is an entrance or exit.

(c) *Signs in the B-1 zoning district.*

(1) *Area.*

a. The total area of all exterior signs for any building in a B-1 zoning district shall be limited to one square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than 25 feet, a sign up to a maximum of 25 square feet shall be permitted. In no case, however shall the total sign area for any operating enterprise exceed 150 square feet, and no single sign in this district shall exceed 45 square feet in area.

(2) *Approved word content.* Signs may include only the following:

- a. Trade name of establishment.
- b. Nature of business, services rendered or products sold on premises.

(3) *Prohibited word content.* Signs may not include the following:

- a. Any reference to price, except as provided in subsection (6)d. of this subsection with regard to window signs.

(4) *Miscellaneous.*

a. A sign not larger than 16 inches in width and five inches in height, made of plastic or metal, may be affixed to the wall of buildings in this district stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.

(5) *Location.*

a. With the exception of theater marquees and V-Box signs as described in subsection (8) of this subsection, no sign shall be erected so that any portion thereof shall project over a dedicated street or sidewalk or so that any portion thereof shall project more than five feet from any main building wall.

b. Subject to the provisions of subsection (1)a. of this subsection, one sign may

be erected on a metal pole with an area of not more than 45 square feet, including any supplemental signs; provided that no part of any such sign shall project over a dedicated street or sidewalk.

c. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located; provided, however, that signs may be installed on the rear walls of commercial buildings in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6, in the town. Such signs shall be limited to a maximum size of 25 square feet and may be illuminated by a bulb with an angle reflector type shield. These signs shall not be included in computing maximum sign area for a given operating enterprise.

(6) *Window signs.*

a. It shall be unlawful for temporary signs of any nature to be attached by any means to glass windows or doors, or to be mounted within 12 inches of the glass window or door towards which they face, except as provided in subsections b., c., or d. of this subsection.

b. Temporary paper signs announcing a licensed going-out-of-business sale or future business shall be permitted to be displayed within glass display windows of such business establishments not to exceed 20 percent of the area of the glass.

c. Temporary signs, professionally lettered, may be displayed within a window providing they are more than 12 inches from the glass surface they are facing, and providing that in total they do not exceed in area 20 percent of the area of the glass window they are facing. A temporary sign not exceeding 144 square inches may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall be not more than one such sign per window or door. Such sign shall not be maintained for more than 14 calendar days.

d. Signs, not in excess of six square inches, listing price, may be attached to items displayed in display windows.

e. Signs of a permanent nature may be applied to the inside or outside surface of a glass window or door or displayed within 12 inches of a glass window or door, provided that they are done in a professional manner, that the lettering does not exceed eight inches in height and that they give only the name of the establishment and the nature of the business, except sit-down restaurants may display a menu in their window or adjacent to their front door which does not exceed 1 1/2 square feet in size. Lettering not more than two inches in height may be applied to either side of one window or glass door per business stating hours of operation. No other type of sign stating hours of operation or "open," "open for business," "closed," or similar signs may be displayed except as provided in subsection (c)(6)c. of this section. Such signs shall not exceed 20 percent of the area of the glass window or door in which they are displayed. In addition, each business establishment may display, at a single location on a glass window or door, not over four ancillary decals, signs or logos, indicating national charge cards which are accepted therein, provided the total area of all such decals, signs or logos so displayed does not exceed 144 square inches. The area of such decals, signs or logos shall not be included in the 20 percent limitation above. Not more than one primary sign may be displayed in any one window or door. All such signs shall require a permit approved by the town manager.

(7) *Lettering on awnings.* Lettering shall be prohibited on awnings, canopies or

valances projecting over a dedicated street or sidewalk; except that the side, perpendicular to the street, may bear the trade name of the establishment in letters not higher than five inches. Where an existing awning, canopy or valance is being replaced or recovered or substantially repaired, a permit is required from the town, and the awning, canopy or valance must conform to this section.

(8) *V-Box signs.* Any ground floor business in the B-1 district may attach a single sign, commonly known as a V-Box sign, of triangular section, containing a completely concealed fluorescent tube, to a permanent canopy over the sidewalk. Such sign shall be mounted perpendicular to the face of the building to which the canopy is attached, with an end (smallest side of the sign) facing the building. Such sign shall not exceed 4 1/2 feet in length and 12 inches in depth, and shall allow at least an eight-foot clearance above the pavement. The sign shall carry only the business name.

(9) *Sign for upper floor tenants.* Each upper floor tenant shall be entitled to erect a single sign, not over 108 square inches in size, at the entrance or lobby of the building which provides egress to such upper floor. In addition, each upper floor tenant may paint a sign on one upper floor window of this establishment, which indicates the name of his business, provided such sign meets all of the requirements of subsection (c)(6)c. of this section.

(Code 1960, § 18-49; Ord. No. 1248, §§ 1, 2, 1-14-91; Ord. No. 1332, § 1, 12-14-93; Ord. No. 1346, § 1, 12-13-94)

Sec. 90-210. Sign construction and illumination.

(a) Construction.

(1) *Generally.* Each sign constructed or maintained shall be so constructed and anchored in accordance with the South Florida Building Code standards.

(2) *Electrical outlets, etc.* All exterior electrical outlets for signs shall terminate in a galvanized or plastic box with a blank cover, which shall be flush with and not protrude beyond the finished surface of the exterior wall. Transformer boxes and other accessory equipment for any sign shall be placed so as not to be visible from the street level. Wooden signs shall not have electric lights or fixtures attached in any manner.

(b) Illumination.

(1) General requirements.

a. Illuminated signs, or illumination in show windows, display windows and displays, in or upon any building or structure shall have the source of light concealed from view from the exterior of the building or structure, except that where channel letters or figures are used for any sign, the illumination thereof may be visible if recessed within the depth of the channel. Intensities of illumination in all cases shall be approved by the electrical inspector of the town before issuance of the sign permit.

b. Only lighting of fixed intensity shall be supplied to signs while illuminated and the use of any blinking, moving or flashing light or lights, or similar device, in window areas or store fronts is prohibited, except decorative flashing illumination may be used between December 10 and January 5.

(2) Special requirements.

a. Neon illumination or other lighting for advertising purposes shall be prohibited inside second story windows.

b. All strip lighting shall be limited to one foot of tubing for each foot of frontage. In multiple-family districts, two feet of strip lighting will be allowed for every running foot of frontage.

c. Exposed neon tubing for signs or decorations is prohibited on the exterior or in the show windows of any building in the town.

(Code 1960, § 18-50)

Sec. 90-211. Nonconforming signs.

(a) *Existing nonconforming signs.* Any sign which does not conform with the provisions of these regulations, regardless of whether or not a permit therefor has been issued, shall be removed not later than October 1, 1989. Any such sign may continue in use until October 1, 1989, unless same is subject to removal in accordance with any other provision of the Code, but no permit for any additional sign shall be issued for any premises on which there is any nonconforming sign.

(b) *Removal of nonconforming signs.* Authority is hereby given to the town manager, and it shall be his duty, to remove or cause to be removed any and all signs constructed or maintained in the town in violation of any of the provisions of this chapter and to assess the cost of such removal against the owner of the property upon which such nonconforming sign is located.

(Code 1960, § 18-51)

Sec. 90-212. Sign permits.

(a) *Permit requirements.* With the exception of window signs as provided in subsections 90-209(c)(6)b., 90-209(c)(6)c. and 90-209(c)(6)d. and temporary signs as provided in section 90-208, no sign shall be erected, altered or relocated without the approval of the town manager. Such approval shall be evidenced by the issuance of a sign permit which shall remain in full force and effect so long as all conditions of these regulations are complied with. If more than one sign is to be erected, each sign shall require separate approval and a separate permit. Prior to the erection of any sign, all necessary building and electrical permits shall be obtained from the town manager.

(b) *Applications.* The application for approval shall include the following data:

- (1) Name, address and telephone number of the sign owner and of the sign erector.
- (2) Drawings showing the design, including the size, height, copy, or type of copy if changeable copy type sign, location on the lot and materials to be used for the sign, as well as structural details of each sign and its supporting structure and the method of lighting proposed.
- (3) Statement indicating the purpose of the sign.
- (4) The size, dimensions, lighting and location of all signs existing on the premises at the time of making said application.
- (5) Any other pertinent information as required by the town manager to insure compliance with these regulations.

(c) *Fees.* The fee for each sign approval shall be as established by the town commission of the town.

(d) *Appeals from town manager's decision.* Any person aggrieved by a decision of the town manager may appeal same to the town commission.

(Code 1960, § 18-52)

Secs. 90-213--90-225. Reserved.

DIVISION 3. OFF-STREET PARKING

Sec. 90-226. Off-street parking requirements.

(a) Except as otherwise provided herein, when any building or structure is hereafter constructed; or structurally altered so as to increase the number of dwelling units or hotel/motel rooms; to increase its total commercial floor area; or when any building or structure is hereafter converted to any of the uses listed in subsection (b) of this section, off-street parking spaces shall be provided in accordance with the requirements of subsection (b) of this section, or as required in subsequent sections of this article.

(b) The number of off-street parking spaces that shall be required to serve each building or structure and use shall be determined in accordance with the following table:

- (1) Single-family dwelling in the RS-1 district: Two spaces.
- (2) Single-family dwelling in all other districts: One space.
- (3) Two-family dwelling: One space for each dwelling unit.
- (4) Multiple-family dwelling, for each dwelling unit:

TABLE INSET:

Efficiency and one-bedroom unit:	1.5 spaces
Two and three bedroom unit:	2.0 spaces
Four-bedroom or more unit:	2.25 spaces

For projects of greater than 60 dwelling units, parking spaces may be provided as tandem spaces, provided, however, a minimum of one unencumbered parking space, tandem or regular, must be provided for each dwelling unit and valet parking service shall be provided at all times. One visitor parking space for each 15 dwelling units unless tandem parking with valet services is provided in which case one visitor space for each 20 units is required.

- (5) Hotel and motel: One space for each room.
- (6) Suite-hotel and suite-motel: One and one-quarter spaces for each room.
- (7) Church, synagogue, temple or other place of assembly: One space for every four seats and one space for every six feet of bench seating.
- (8) Private clubs and lodges: One space per 250 square feet of gross floor area.
- (9) Auditorium or theatre: One space for each four seats.
- (10) Grocery, fresh fruit or meat market: One space for each 250 square feet of gross floor area.
- (11) Retail store or personal service establishment: One space for each 300 square feet of gross floor area.
- (12) Office or office building: One space per 400 square feet of gross floor area; however, medical offices, dental offices and clinics shall provide one space per 300 square feet of gross floor area.
- (13) Restaurants or other establishments for the consumption of food and beverages on the premises: One space per four seats.

(14) Place of assembly without fixed seats: One space for each 50 square feet of floor area available for seats.

(15) Banks, savings and loans or other financial institutions: One space per 300 square feet of gross floor area.

(Code 1960, § 18-53; Ord. No. 1437, § 3, 1-14-03)

Sec. 90-227. Interpretation of these requirements.

(a) The parking required herein is in addition to space required for the loading and unloading of trucks or other vehicles used in connection with a business, commercial, or industrial use.

(b) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

(c) The parking space requirements for a use not specifically listed in this section shall be the same as for a listed use of similar characteristics of parking demand generation.

(d) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

(e) Whenever a building or use, constructed or established after the effective date of this article, is changed or enlarged in floor area, number of dwellings or sleeping units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(Code 1960, § 18-54)

Sec. 90-228. Restricted and prohibited parking.

(a) Off-street parking spaces in RS-1, RS-2 and RD-1 districts shall not be located in a required front yard except as follows:

(1) Driveway space for access to parking areas or garages located in a required front yard.

(2) It shall be unlawful to park vehicles of any type in private driveways or front yards in said districts unless they belong to the occupant of such residence, a member of his immediate family, a resident of the household residing on the property, or a bona fide guest or visitor thereof.

(3) When an automobile vehicle or motorcycle has been parked in violation of this section intermittently or continuously during a period of three weeks and such vehicle is registered in the name of a person other than to the occupant of the property, a member of his or her immediate family or a resident of the household residing on the property, it shall constitute in evidence a presumption that such vehicle is unlawfully parked in violation of this section.

(4) No trailer of any type may be kept in any required yard continuously for more than 72 hours, except as may be provided in sections 90-192 and 90-193. All trailers must display a valid license plate and registration decal as required by state law, be in operating condition and be supported by fully inflated tires on functioning wheels.

(b) Where off-street parking spaces serve an existing permitted structure located in the RD-2, RM-1 or the RT-1 districts and occupy all or portions of the required front yard, such use may be continued until the existing structure is removed.

(c) No motor vehicle, as defined by state law, may be kept in any unpaved area of any lot or parcel in the town.

(d) No motor vehicle, as defined by state law, which is not in operating condition or which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, may be kept in any paved area of any lot for more than 30 days.

(e) The off-street parking of trucks and other commercial vehicles, in excess of what is commonly known as a three-fourth-ton truck or vehicle, or any other equipment used for commercial purposes, is prohibited in RS-1 single-family residential district, RS-2 single-family residential district, RD-1 two-family residential district, RD-2 two-story multiple-family residential district, RM-1 multiple-family residential district, RMO-1 residential multi-family overlay district, RT-1 tourist district and CO-1 commercial office overlay district. This prohibition shall not apply to any such vehicle which is in process of making an expeditious delivery, rendering services to the premises (such as electrical, plumbing or yard work) or continuously and completely enclosed within the confines of a permitted garage.

(Code 1960, § 18-55; Ord. No. 1250, § 1, 2-12-91; Ord. No. 1282, § 1, 6-9-92; Ord. No. 1374, § 1, 7-8-97)

Sec. 90-229. Joint use and off-site facilities.

(a) All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.

(b) Where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a deed restriction or covenant thereby assuring their retention for such purposes shall be properly drawn and executed in recordable form by the parties concerned, approved as to form by the town attorney, and shall be filed with the application for a building permit.

(Code 1960, § 18-56)

Sec. 90-230. Design standards.

(a) *Minimum area.* For the purpose of these regulations, except as provided below, off-street parking spaces shall not be less than nine feet by 20 feet, exclusive of driveways, for the temporary storage of one automobile. Aisles shall have dimensions as set forth in the Zoning Code of Metropolitan Dade County entitled "Minimum Parking Stall Dimensions," except as may be set forth below. Such parking spaces shall be connected with a street or alley by a driveway which affords ingress and egress without requiring another automobile to be moved. However, where compact car spaces are permitted they shall be a minimum of eight feet by 16 feet, and where parking spaces for the handicapped are to be provided they shall be a minimum of 12 feet by 19 feet or nine feet by 19 feet where located immediately to the right of and parallel to an access aisle four feet or greater in width.

(b) *Drainage and maintenance.* Off-street parking facilities shall be drained to prevent damage to abutting property and/or public streets and alleys and surfaced with a minimum of at least one inch of asphaltic concrete or a wearing surface on a six-inch compacted lime rock base. Off-street parking areas shall be maintained in a clean, orderly, and dustfree condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

(c) *Separation from walkways and streets.* Except in the RS-1 and RS-2 districts, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device.

(d) *Entrances and exits.* Location and design of entrances and exits shall be in accord with the requirements of the town manager, but not more than one entrance or exit, not exceeding 12 feet in width, shall be permitted for every 50 feet of width of the parking lot.

(e) *Marking.* Parking spaces in lots of more than ten spaces shall be marked by a painted line or other means to indicate individual spaces; a curb or stop shall be provided at each parking space. Signs or markers shall be used as necessary to ensure efficient operation of the lot.

(f) *Lighting.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. As provided in section 90-189, the lighting shall be installed, maintained and regulated so as to reflect the light away from adjoining property and avoid annoyance to such premises.

(g) *Screening.* Off-street parking lots with capacity for six or more vehicles shall provide along the lot lines, except for ingress and egress, a visual screen with a height of not less than two feet or more than three feet. Such screen shall consist of a compact evergreen hedge.

(h) *Compact and handicapped spaces.* Parking stall and aisle dimensions shall conform to the Zoning Code of Metropolitan Dade County entitled "Minimum Parking Stall Dimensions," except as may otherwise be provided in this Code. The percentage of compact spaces in any individual parking facility shall not exceed 30 percent for facilities of 25 to 50 spaces; 35 percent for facilities of 51 to 250 spaces; and 40 percent for facilities of 251 or more. The compact car spaces shall be clearly designated for "Compact Cars Only." Handicapped spaces shall likewise be clearly designated for "Handicapped Only." The placement of compact car spaces within a parking area shall be subject to site plan review which shall take into consideration parking design standards and such matters as frequency of use, safe and expedient traffic flow, recognition and accommodation. For purposes of this section, a compact car shall mean an automobile which has a width of no more than 74 inches and a length of no more than 192 inches. In all instances, adequate interior driveways and ingress and egress driveways shall be provided to connect all parking spaces with a public street or alley. Where a parking space heads into and abuts a sidewalk, the paved length shall be curbed in order to prevent extension of the vehicle over the sidewalk. Required parking shall comply with these provisions and such parking cannot be placed in dedicated or official rights-of-way. Private, noncommercial off-street parking shall be reserved exclusively for the tenant or owner and their customers and employees, unless otherwise approved as a result of a public hearing.

(Code 1960, § 18-57; Ord. No. 1382, § 1, 2-10-98)

Secs. 90-231--90-240. Reserved.

DIVISION 4. OFF-STREET LOADING

Sec. 90-241. Off-street loading requirements.

Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 25 percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3 and subsequent sections of this article.

TABLE INSET:

Column 1 Use or Use Category	Column 2 Floor area as Defined in Definitions, in Square Feet	Column 3 Loading Spaces Required in All Districts
Business, commercial	10,000--60,000	One
Office building	60,000 and over	Two
Multiple-family building	20,000--100,000	One
Hotel or motel	100,000 and over	Two

(Code 1960, § 18-58)

Sec. 90-242. Interpretation of the chart.

The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in connection with other articles of this chapter.

(Code 1960, § 18-59)

Sec. 90-243. Design standards.

(a) *Minimum size.* For the purpose of these regulations, a loading space is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum width of 12 feet, a minimum depth of 30 feet, and a vertical clearance of at least 14 1/2 feet.

(b) *Drainage and maintenance.* Off-street loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with at least one inch of asphaltic concrete as a wearing surface on a six-inch compacted lime rock base.

(c) *Entrances and exits.* Location and design of entrances and exits shall be in accordance with applicable requirements of the town manager.

(Code 1960, § 18-60)

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN SEPTEMBER 2006 AND THE 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

	<u>ORD. NO.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
1.	1460	9-12-06	90-58	Adopting <i>new Procedures</i> for approval of variances, special use permits, conditional use approvals, and zoning changes	
2.	1461	9-12-06	90-244	<i>Zoning in Progress</i> ordinance adopted	
3.	1462	9-12-06	90-196	<i>Emergency power generators</i> regulations adopted	
	1463	9-12-06	2-146—2-148 2-146—2-150		
	1463A	9-26-06	54-38		
	1464	10-10-06	2-201—2-209		
4.	1465	10-10-06	90-17—90-19	Authorizing hire of <i>consultants</i> at zoning applicants' expense	
5.	1466	10-10-06	90-37(c)	Landscape ordinance repealed, County's ordinance adopted	
	1467	11- 7-06	3-1—3-17		
	1468	2-13-07	6-7		
	1469	2-13-07	18-2 18-72 18-73 18-26—18-42		
6.	1470	2-13-07	90-250	<i>Home offices</i> authorized, regulated	
	1472	3-14-07	70-146—70-151		
	1473	3-14-07	2-185(a)		
	1474	4-10-07	2-226—2-236		

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN SEPTEMBER 2006 AND THE 2008 ZONING CODE REWRITE**

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<u>ORD. NO.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
7.	6-12-07	90-101—90-119	<i>Certificates of use defined and required</i> for all existing and future business; providing for process, fees, and regulations	
	6-15-07	15-1—15-18		
8.	5-15-07	90-183	<i>Max fence and hedge height</i> set at 6 and 10 feet respectively; prohibited in ROW except in circular drives; finished walls to face property; chain link & wire fencing prohibited	
9.	6-12-07	90-2 90-41(b) 90-147 90-149 90-151 90-152(b)(8)d. 90-152(b)(18) 90-152(b)(18) 90-152(b)(19) 90-152(b)(19)i. 90-226 90-227(f) 90-256—90-258	“ <i>Place of public assembly</i> ” and “common area” defined; Removing churches and synagogues from list of conditional uses; removing such references in RT-1, RD-1, & RM-1 district regulations; permitting public assembly in B1 district only on second floors; establishing parking requirements for places of assembly and variance procedure re the same; providing map of locations where places of assembly are allowed; allowing no-fee operations licensing for nonprofit places of assembly; authorizing home-based and common –area assembly uses	
10.	6-12-07	90-145(b) 90-146(b) 90-177(e)	<i>Garage Conversions</i> facilitated by eliminating prohibition on addition of doors to front facade, and specifying that addition of home office use shall not be a 'change of use'	
11.	6-12-07	90-152(19) 90-152(19) 90-152(20)	<i>Health studios, health clubs and reducing salons</i> allowed as permitted uses on first floor levels in B1 District	

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN SEPTEMBER 2006 AND THE 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. NO.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
		90-152(20)e. 90-152(20)f.—m. 90-152(20)e.—l.		
1482	4-10-07	86-41		
1483	7-10-07	2-151		
1484	8-14-07	18-80,18-81		
12. 1485	9-11-07	90-245—90-246	<i>Design Guidelines</i> and process for applying and waiving the same adopted	
13. 1487	9-11-07	90-51—90-60 90-51—90-57	<i>Planning and Zoning Board</i> rules and enabling ordinance repealed and replaced	
14. 1488	11-13-07	90-184	<i>Dock length</i> may extend up to 35 feet into Biscayne Bay (formerly 20 feet)	
1489	12-11-07	75-1,75-2		
15. 1490	12-11-07	90-208(c)	<i>Political sign</i> dimensions, height, and duration increased in the RS1, RS2, RD1, RD2, and B1 Districts	
16. 1491	5-13-08	90-1—90-19, 90-36—90-41, 90-51—90-57, 90-71—90-78, 90-91—90-94, 90-100—90-123, 90-145—90-155, 90-176—90-196, 90-206—90-212, 90-226—90-230, 90-241—90-246, 90-250,	<i>Zoning Code</i> Rewritten	

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN SEPTEMBER 2006 AND THE 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. NO.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
		90-256—90-258 90-1—90-99		

ORDINANCE NO. 08-149

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" OF THE CODE OF SURFSIDE, FLORIDA BY REPEALING AND REPLACING CHAPTER 90 ENTITLED "ZONING" IN ITS ENTIRETY; ADOPTING A NEW CHAPTER 90 ENTITLED "ZONING" INCLUDING ADOPTION OF AN OFFICIAL TOWN ZONING MAP FOR ALL DISTRICTS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") indicated its desire to update and streamline its existing Zoning Code to better reflect the Town's future needs and community vision; and

WHEREAS, the Town has undertaken a comprehensive rewrite of the Zoning Code as well as the creation of an official Zoning Map; and

WHEREAS, this Ordinance purports to now repeal and replace Chapter 90 "Zoning" in its entirety, including but not limited to, the previously and separately adopted "Sign Code" as well as the adoption of an official zoning map, all of which is incorporated into the revised Zoning Code attached hereto as Exhibit "A"; and

WHEREAS, after numerous public workshops considering recommendations of staff and public opinion, and after conducting a properly noticed public hearing on December 20, 2007, the Local Planning Agency (the Planning and Zoning Board) has recommended that the aforementioned Zoning Code and Official Zoning Map contained attached as Exhibit "A" as advisable and consistent with the Town Comprehensive Plan; and

WHEREAS, the Town Commission has reviewed this Ordinance at duly noticed and held public hearings beginning January 8, 2008 and determined that it is consistent with the Town's comprehensive plan, the adopted vision of the Town developed in 2006 in the Town charette (as evidenced by the post-charette booklet), as well as all requirements of the law; and

WHEREAS, the Local Planning Agency (the Planning and Zoning Board) considered and approved the "Sign Code" as a separate ordinance (Sign Code Ordinance) which ordinance is now fully folded and incorporated into this ordinance containing the zoning code in its entirety, and

WHEREAS, the Sign Code Ordinance adopted by the Planning and Zoning Board contained the following recitals relating to Division II. "Signs" Sections 90-71 through 90.80 which are hereby incorporated into and fully adopted as part of this ordinance and the zoning code adopted herein. They are as follows:

"WHEREAS, the Town has determined that there is a need to amend its sign regulations to address recent federal cases addressing sign regulation in the Eleventh Circuit Court of Appeals; and

WHEREAS, the Town Commission finds and determines that the Town's sign regulations were always intended to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, while meeting the need for signage that clearly identifies locations, advertises businesses, and otherwise communicates commercial and noncommercial messages; and

WHEREAS, sign regulation designed to advance the governmental purpose of aesthetics has long been upheld by the state and federal courts; and

WHEREAS, as long ago as 1954, the U.S. Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the Town Commission to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled," in *Berman v. Parker*, 348 U.S. 26, 33 (1954), which was followed by *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980); and

WHEREAS, sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Ass'n of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and

WHEREAS, the Town Commission finds and determines that the Town's zoning regulations are required to regulate signs as provided by Sign Code 163.3202(2)(f), Florida Statutes; and

WHEREAS, the Town Commission finds and determines that this Ordinance is consistent with all applicable policies of the Town's adopted Comprehensive Plan; and

WHEREAS, the Town Commission finds and determines that the Town has consistently adopted severability provisions in connection with its Code of Ordinances and Zoning Code, and that the Town wishes to assure that its severability provisions will be applied to its Zoning Code, including its sign regulations at Chapter 90; and

WHEREAS, in several recent judicial decisions, the courts have failed to give full effect to severability provisions applicable to sign regulations, and expressed uncertainty over whether Town Commission's intended that severability would apply to certain factual situations despite the plain and ordinary meaning of the severability clauses; and

WHEREAS, the Town Commission is aware that the failure of some courts to apply severability clauses has led to an increase in litigation by billboard developers and other applicants seeking to strike down sign regulations in their entirety so that they may argue that their applications to erect billboards or other signs must be granted; and

WHEREAS, the Town Commission desires that there be an ample and unequivocal record of its intention that the severability clauses it has adopted related to its sign regulations shall be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances, or other sign provisions are invalid or unconstitutional for any reason whatsoever; and

WHEREAS, the Town Commission further finds and determines that the Town has long allowed non-commercial speech to appear wherever commercial speech appears and that it has codified that practice through the adoption of a substitution clause that expressly allows non-commercial messages to be substituted for commercial messages; and

WHEREAS, the Town Commission specifically intends that this substitution clause and past practice be applied so that its sign regulations can never be construed to impermissibly favor commercial messages over noncommercial messages, and desires to amplify this substitution clause in this Ordinance to bolster its effectiveness; and

WHEREAS, the Town further provides for the political expression of its residents, as required by *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), by allowing a permanent non-commercial sign to be posted in any residential zoning district;

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on December 20, 2007, and recommended its adoption; and

WHEREAS, the Town Commission has reviewed the Ordinance in its entirety including the sign code which had previously been adopted separately and is now incorporated into the zoning code at a duly noticed hearing and determined that it is consistent with the Town's comprehensive plan; and

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest as well as promotes the public health, safety and welfare of the citizens of the Town of Surfside.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Adoption of the Zoning Code. The Town Commission hereby repeals the existing Chapter 90 "Zoning" of the Town Code (including Division II Signs) and replaces it with the Zoning Code and Official Zoning Map attached hereto as composite Exhibit "A" and incorporated as if fully set forth herein.

Section 3. Repeal of Conflicting Provisions.

All provisions of the Code of the Town of Surfside and any prior Official Zoning Maps that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part. It should be noted Section 90-71 of the Code contains its own severability clauses with respect to "Division II Signs" and these severability provisions with respect to Signs shall govern over this general severability clause if any section of the Code between Section 90.71 through 90.80 is held invalid or unconstitutional.

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Surfside, Florida, Code of Ordinances; 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 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

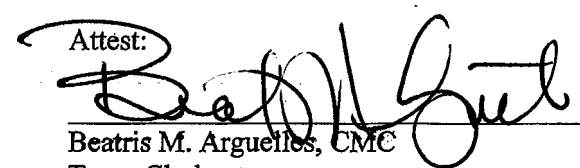
PASSED and ADOPTED on First Reading the 12th day of February, 2008.

PASSED and ADOPTED on Second Reading this 13th day of May, 2008.



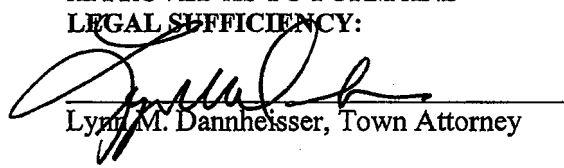
Charles W. Burkett, Mayor

Attest:



Beatris M. Arguelles, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

Moved by: Vice Mayor Imberman

Second by: Commissioner Calderon

Vote: 4-1

Mayor Burkett	yes	_____	no	<input checked="" type="checkbox"/>
Vice Mayor Weinberg	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Blumstein	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Imberman	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	_____

Town of Surfside Zoning Code



Prepared by:



an Employee Owned Company

Calvin, Giordano & Associates, Inc.

EXCEPTIONAL SOLUTIONS

1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316
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May 2008



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Article 1 In General

Sec. 90.1 General Rules of Construction.

The following general rules of construction shall apply to the regulations contained in this chapter:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tenses, and the future the present.
3. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

Sec. 90.2 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

Accessory building: a detached covered or screened subordinate building or a portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purposes of the height, area and bulk regulations.

Accessory use: a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building use.

Alley: a public or private thoroughfare which affords only a secondary means of access to abutting property.

Awning: a detachable, roof like cloth cover, supported from the walls of a building for protection from the sun or weather.

Bar: an establishment licensed by the state which is devoted to the selling or the dispensing and drinking of alcoholic beverages on the premises.

Basement: that portion of a building between floor and ceiling which has at least one-half of its height below the grade of the street on which it fronts. The height of a basement above grade shall not exceed one-half of the average height of a story in the building.

Breezeway: a covered passageway or space between the main building and an accessory building, open on two sides and the roof of which is structurally integrated with the buildings it separates.

Building: any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

Building area: the area within the confines of the exterior walls of the main building, accessory buildings, covered porches and terraces.

Building, completely enclosed: a building having no outside openings, other than doors, windows, and ventilators.

Building, main: a building in which the principal use of the lot on which it is located is conducted, or is intended to be conducted.

Bulk: a term used in these regulations to describe the size (and shape) of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.



Business:

1. Includes all vocations, occupations, professions, enterprises, establishments and all activities and matters, together with all devices, machines, vehicles and appurtenances used herein, and of which are conducted for private profit or benefit, either directly or indirectly, on or from any premise in the town
2. Does not include the customary activities of religious, charitable, nonprofit service clubs and organizations or educational nonprofit institutions as those terms are defined in Division 205, Florida Statutes, as may be amended.

Cabana: a permanent or portable bath cabin on the exterior of a residence, hotel or apartment house, together with only such accessories as wood slat walks or decks, terraces, rubbing rooms and toilet facilities, but not intended for sleeping or living quarters. Cabanas erected on the exterior may be of pipe frame and canvas, wood frame and masonite and be constructed in such a manner that they are portable and easily dismantled in the event of a hurricane. Cabanas of any other type shall be built of masonry. Cabanas shall be permitted only in conjunction with an outdoor swimming pool.

Canopy: a permanent, roof-like cover made of cloth, metal, vinyl or other permanent material supported from the ground or deck or floor of a building, and from the walls of a building for protection from sun or weather.

Caretaker's quarters: living quarters within a portion of a main building or in an accessory building located on the same lot with the main building, used for workers employed on the premises and not rented as a separate dwelling.

Carport: a roofed and usually wall-less shed projecting from the side of a building, used as a shelter for automobiles.

Certificate of Occupancy, Final: a document issued by the Town Manager or designee certifying that he/she reasonably believes a building, or part thereof, and its occupancy to be in compliance with the minimum standards of safety, as set forth in the Florida Building Code, prior to the building's occupancy and after its inspection and that said building is in conformity with all other applicable laws and regulations.

Certificate of Use: a document issued by the Town Manager or designee that the zoning use classification of any business, within any approved structure or building or unit therein, is allowed prior to its occupancy and after inspection of the premises and proof of compliance with all the requirements of the Town Code of Ordinances and all other applicable laws and regulations; provided, however, that no Certificate of Use shall be issued until it has been reviewed and approved by Town Manager or designee.

Clinic: an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together in a business relationship. The term does not include a place for the treatment of animals.

Club, private: a building and facilities or premises, owned and operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. A private club may include the normal accessory uses such as tennis courts, cabanas and parking spaces.



Common area: a room or designated area within a building or complex of buildings zoned for residential use served by shared or public parking area, which is reserved for the exclusive use of the residents of the building or complex and their invited guests, and as an accessory use to the primary residential use of such buildings.

Conditional use: any use listed in Section 90-23 as a conditional use which would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

Design Guidelines: Design Guidelines, as adopted by the Town of Surfside, intended to provide direction and suggestions for all development.

Detached Single-Family: One (1) dwelling unit, other than a mobile home, sharing no walls with another dwelling unit.

District: any section of the Town within which the zoning regulations are uniform. (See district map.)

Duplex, two-family dwelling: Two (2) dwelling units attached by a common party or firewall in one building.

Dwelling: a building or portion thereof, designed or used exclusively for residential occupancy.

Dwelling unit: a room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family.

Family: an individual or two (2) or more persons related by blood or marriage or a group of not more than three (3) unrelated persons (excluding workers employed by the household) living together as a single housekeeping unit in a dwelling.

Fence: a structure forming a physical barrier constructed of wood, aluminum, or other materials except chainlink or wire.

Filling station: any building, structure, or land used for the sale at retail of motor vehicles fuels, oils, or accessories, or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting, and excluding public garages.

Floor area: the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. Basement space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

1. In particular, floor area includes:
 - a. Elevator shafts or stairwells at each floor.
 - b. Floor space used for mechanical equipment.
 - c. Floor space in penthouses.
 - d. Attic floor space (whether or not a floor has been laid) providing structural headroom of seven (7) feet six (6) inches or more.
 - e. Floor space in interior balconies or interior mezzanines.
 - f. Floor space in porches and pools enclosed with plastic, glass or permanent type of material.



- g. Any floor space used for residential use, no matter where located within the building.
2. However, the floor area of a building shall not include:
 - a. Basement space when used for parking of vehicles, as provided in the design standards for underground parking in this Code.
 - b. Accessory water tanks or cooling towers.
 - c. Uncovered steps and exterior balconies.
 - d. Interior balconies. The width of an interior balcony shall not be greater than the depth.
 - e. Covered or uncovered terraces, patios, breezeways, or porches which are open on two (2) sides.

Floor area ratio: the floor area of a building or buildings on any lot divided by the area of the lot.

Franchise chain: nationally recognized retailer or restaurant.

Frontage, street: the distance along a street line from one (1) intersecting street to another or from one (1) intersecting street to the end of a dead-end street.

Frontage, lot: the distance for which the front lot line and street line are coincident.

Garage, parking: a building or portion thereof designed or used for the temporary storage of motor-driven vehicles.

Garage, private: an accessory building, not exceeding nine hundred (900) square feet in floor area, designed or used for the storage of not more than four (4) automobiles.

Grade: the average datum or elevation of the crown of the road upon the street serving the lot or building site.

Height: the vertical distance from the grade, which is the average datum or elevation of the crown of the road upon the street serving the lot or building site, to the highest point of the roof.

Hotel: a building in which lodging is provided and offered, including all utilities and housekeeping services, to the general public for compensation, with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside lobby supervised by a person in charge at all times.

1. Hotel room means a room or group of rooms in a hotel intended for rental to transients and not intended for use or used as a permanent dwelling.
2. Each hotel room shall have a private bath attached thereto, but no kitchen facilities therein.
3. The existence of separate utility meters serving any room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an apartment.

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Indian Creek bulkhead line: the bulkhead line as defined in Section 14-101.

Interior balcony: a platform that is supported by the wall of a building that is surrounded by three sides of the building and open on one side.



Loading space: a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks.

Lot: a parcel of land occupied or which may be hereafter occupied by a building, buildings and any accessory buildings, together with such open spaces and parking spaces or area as are required under this Article and having its principal frontage upon an officially approved street or place. "Lot" includes the word "plot" or "parcel" or "tract" or "site."

Lot area: the total horizontal area within the lot lines of the lot. In determining usable lot area in the H120 district, it shall be from the west lot line to the erosion control line and the north lot line shall be the north boundary and the south lot line shall be the south boundary.

Lot, corner: a lot abutting upon two (2) or more streets at their intersection.

Lot coverage: the percentage of the total area of a lot that, when viewed from above, would be covered by all principal and accessory buildings and structures, or portions thereof; provided however that allowable exclusions, as described under "floor area," shall not be included in determining the building area.

Lot, depth of: the average horizontal distance between the front and rear lot lines, except where a lot abuts the ocean, Indian Creek or other established waterway; then the depth of the lot shall be the average horizontal distance between the front lot line and the erosion control line.

Lot, front: shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street.

Lot, interior: a lot other than a corner lot.

Lot of record: a lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of the county; or a parcel of land which became legally established and defined by a deed or act of sale.

Lot, through (double-frontage): a lot having a frontage on two (2) parallel or approximately parallel streets or places.

Lot width: the horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line, or measured at the street line if no front yard is required.

May: permissive

Multi-dwelling structure: a residential building on a plot, consisting of three (3) or more dwelling units, having at least three (3) common party walls with adjacent dwelling units, except for end or corner units.

Nonconforming lot: a lot which had a separate existence prior to the enactment of these zoning regulations, or any amendment thereto, which requires a larger area, frontage, width or depth than that which existed prior to such enactment.

Nonconforming structure: a structure which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the restrictions as to size, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings required by the regulations adopted subsequent to its construction, and which is continuously maintained after the effective date of such regulations or amendment thereto.



Nonconforming use: a use of land and/or buildings which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the use restrictions applicable to the district in which it is situated, and which is continuously maintained after the effective date of such regulations or amendment thereto.

Ocean bulkhead line: that bulkhead line as defined in Section 14-86.

Occupied: possession and use of a structure for its intended purpose. The words "used" or "occupied" include the words "intended," "designed" or "arranged" to be used or occupied.

Parking lot: an open, unoccupied area of land used or required for use for parking automobiles exclusively and in which no gasoline, oil, services, wash-racks or accessories are sold or no other business conducted.

Parking space, off-street: a paved area not in the street or alley and having an area of not less than nine (9) feet by twenty (20) feet, exclusive of driveways, permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Person: any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator receiver or other fiduciary.

Pervious Area: Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water directly into the ground.

Place of business: any structure used for the purpose of exercising the privilege of engaging in business within the Town limits.

Place of public assembly: any area where individuals assemble, whether publicly or privately owned and maintained. Includes, but is not limited to, public assembly buildings, such as auditoriums, private clubs and lodges, community centers, clubhouses and theaters; and places of worship or other facilities that are used for prayer and assembly by persons of similar beliefs.

Regulations: the whole body of regulations, text, charts, tables, diagrams, maps, notations, references and symbols, contained or referred to in this chapter.

Restaurant: an establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises and every establishment preparing food to be called for, delivered to or taken out by customers.

Roof Deck: An open, unroofed floor structure used in conjunction with a principal building and installed on the roof of a building.

Setback: the minimum distance required by a zoning district that all structures shall be from front, side and rear lot lines. Setback includes the words "required yards" or "minimum required yards" and "minimum yards."

Shall: always mandatory and not merely discretionary.

Show window or display window: an area enclosed on one (1) or more sides by glass, adjacent to the public right-of-way, for the purposes of displaying signs and merchandise to the public. Where transparent glass constitutes part of a front or side of a building adjacent to the public right-of-way, all areas within five (5) feet of such glass shall constitute a show window.



Site plan: a drawing illustrating a proposed development of a lot or tract, in accordance with the specifications and requirements set forth in Section 90-19.8 and 90.20(3)(b).

Special exception: a use that would generally not be appropriate in the zoning district, which may be authorized by the Planning and Zoning Board if specific provisions and controls are applied.

Story: that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor next above it, then the space between such floor and ceiling next above it.

Street: a public thoroughfare which affords the principal means of access to abutting property.

Streetline: a dividing line between a lot and the adjacent street.

Structure: anything constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground, including, but not limited to buildings, individual units within a building, trailers/construction trailers, signs, backstop for tennis courts, swimming pools, fences, screen enclosures, and pergolas.

Structural alterations: any change that would change the shape or size of any portion of the exterior of the building or structure, including any work affecting the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders.

Substantial improvement: any combination of repairs, reconstruction, alteration or improvements to a building, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building. The market value of the building should be:

1. The appraised value of the building prior to the start of the initial repair or improvement;
2. Such other value as approved by the federal government or the state; or
3. In the case of damage, the value of the building prior to the damage occurring.

This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Suite-hotel: a hotel containing one or more suite-hotel rooms as defined below. A minimum of fifteen (15) percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. The building shall not have open exterior walkways providing access to units. Provided that all conditions of this Code are met, a suite-hotel may be a timeshare property as defined in F.S. Ch. 721.



Suite-hotel room: a hotel room in a suite-hotel containing not less than five hundred twenty-five (525) square feet of net useable interior space and shall contain kitchen facilities.

Swimming pool: any permanent structure containing a body of water intended for recreational purposes, including a wading pool.

Townhouse: Two (2) or more dwelling units attached by a common party or fire wall with each unit having two (2) or more stories.

Transient: any person who exercises occupancy or is entitled to exercise occupancy of any structure or part thereof by reason of renting, leasing, letting or granting a license for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

Use: any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity or operation carried on or intended to be carried on in a building or other structure or on land.

Wall: a structure or device forming a physical barrier that is constructed so that the vertical surface is closed to prevent the passage of vision in a horizontal plane.

Weep Holes: small holes in a retaining wall or other ornamental wall where it may be necessary to drain off excess water to avoid pressure build-up and ponding of water.

Yard: an open area which is on the same lot as a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

Yard, front: a yard across the full width of the lot extending from the front line of the building to the front street line of the lot.

Yard, rear: a yard extending the full width of the lot between the main building and the rear lot line.

Yard, side: a yard on the same lot with the building between the main building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

Sec 90.3

Enforcement, interpretation, purpose and conflict.

1. The Town Manager or designee shall designate personnel who shall have the authority to enforce the provisions of this Code.
2. Where it is found that any of the provisions of this Code are being violated, enforcement proceedings may be initiated against the real property owner, the tenant if applicable and any other person violating the provisions of this Code. Any enforcement procedure authorized by the Town of Surfside Code of Ordinances or state law may be used to enforce the provisions of this Code. It shall be at the discretion of the Town Manager or designee to determine which method of enforcement is appropriate and whether more than one method of enforcement should be brought.
3. In addition to enforcement by the Town Manager or designee, the provisions of this Code may be enforced by the Surfside Police Department if appropriate.
4. Further, the Town Commission may direct the Town Attorney to bring an action for injunctive relief in appropriate circumstances.



5. Where this Code includes regulations on the same point as contained in any other law or ordinance, the provisions of this Code shall govern; except that where the regulations of the other law or ordinance are more restrictive than those of this Code, the other shall govern.
6. In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreement, provided however, that where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces or yards or lot areas than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of these regulations shall govern.

Sec. 90.4

Policy and objectives.

The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, morals, health, order, convenience, prosperity, and general welfare of the citizens of the Town and of the citizens of Miami-Dade County, Florida, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the civic amenities of beauty and visual interest, and for development in accord with the comprehensive plan by establishing zoning districts and by regulating the location and use of buildings, structures, and land for trade and residence, by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces and the density of same. To accomplish these objectives, the regulations and districts and accompanying map have been designed with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses.

Sec. 90.5

Compliance with regulations.

1. Purpose: Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.
2. Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.
3. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
4. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.



5. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
6. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.
7. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area regulations of the district in which it is located.
8. No building shall be erected or moved except in conformity with the established flood criteria, as indicated on the most current edition of the Federal Flood Insurance Rate Maps and in Chapter 42, Article II, applicable to the lot on which the building is located.
9. No building shall be erected or enlarged after the effective date of these regulations, which reduces any level of service standard established in the Town's adopted Comprehensive Plan.
10. All improved properties shall have their street number displayed and clearly visible from the street on which the front entrance of the building faces. In the SD-B40 and the H120 districts, all properties additionally shall have their street numbers displayed and clearly visible from the rear of the property.
11. Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:
 - a. A governmental act of development approval was obtained prior to the effective date of this Chapter or prior to the effective date of an amendment to this Chapter; and
 - b. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
 - c. That it would be highly inequitable to deny the property owner the right to complete the development.

90.5.1 Only one (1) main building and the accessory buildings and uses customarily incident thereto shall be located on any single lot. In the case of single-family dwellings, only one (1) kitchen shall be provided on each lot.

Sec. 90.6 Zoning in progress, applicability, temporary hold on permits and Licenses

1. Purpose. The zoning in progress doctrine ("zoning in progress") generally allows the Town to apply, on a retroactive basis, if necessary, changes to zoning regulations or to the zoning district status of property, to previously approved or currently in process development applications. Additionally, the zoning in progress allows a temporary hold on permits and licenses if there is a change in zoning, which is already in progress that would affect the permit or license.
2. Initial adoption of zoning regulations. Zoning in progress shall be applied to the initial adoption of this Section in the following manner:
 - a. Zoning in progress shall not be applied to the extent that vested rights are established.



- b. Zoning in progress shall apply to applications for development approvals, which were filed with the Town after the cut-off date established in (2) above. Upon the adoption of any impact fees, all applicants will be responsible for the remittance of same to the Town, irrespective of time of filing of the application, up to and including to the time of issuance of a building permit.
 - c. Zoning in progress shall not apply to the grant of any moratorium waiver specifically granted by the Town Commission.
3. Future amendments to zoning regulations. When an amendment to the zoning regulations or in the application of any particular zoning district classification to land is being considered, the Town may impose a temporary hold on any development applications pending before the Town with respect to the area of the zoning regulatory text which is the subject of the amendment. The hold shall commence upon the date that the notice of zoning in progress is published in a newspaper of general circulation in the Town and shall continue in effect for a period from the date of notice until the subject change, with or without amendments, shall have been approved or disapproved by the Town Commission or for a period of three (3) months, whichever is sooner, unless such development application would be in conformity with the more restrictive of the existing zoning district status or the zoning district regulations as compared to the proposed zoning district status or zoning district regulations. An affected person may appeal the Town staff's application of this provision to the Town Commission for review by the Town Commission by filing a notice with the Town Manager.

Sec. 90.7

Buildings under construction.

Any building or structure for which a lawful building permit has been issued, and the construction of which has been started prior to the effective date of the ordinance from which this chapter was derived may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided such construction is completed within one (1) year after the effective date of the ordinance from which this chapter was derived.

Sec. 90.8

Outstanding permits.

- 1. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid building permits, authorizing the construction of buildings, structures, additions or alterations, the use or construction of which do not conform to the requirements of this chapter, such permits shall be void unless actual construction work, excluding grading or excavating, is substantially underway on that date and the underlying vested rights to construction are vested. Vested rights are defined in 90-5.11.
- 2. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid permits, authorizing the use of land or buildings without construction work, and where such use is not permissible under the terms of this chapter, such permit shall be void unless the use is actually in operation on that date.

Sec. 90.9

Relationship to the comprehensive plan.

All regulations contained in this chapter and the maps attached thereto shall be amended, supplemented or changed only in compliance with Florida law and shall be consistent with the Comprehensive Plan.



Sec. 90.10 Provision for storm drainage.
No structure shall be constructed or enlarged unless it meets all requirements of Chapter 34 regarding storm drainage management. Such requirements shall apply to all accessory buildings or structures or uses serving such structures.

Sec. 90.11 Charges for consulting services established.

1. Except for applications by a single-family homeowner in the H30A and H30B districts, the Town Manager or designee, in the review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or environmental consultant or professional(s) employed by the Town as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the Town and such consultant. Charges made by the Town shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid on submission of a Town invoice.
2. Unless prohibited by law, the applicant shall reimburse the Town for the cost of such consultant or employed professional services upon submission of a copy of the invoice, within thirty (30) days of submission of a copy of the invoice. These fees are in addition to any and all other fees required by other law, rule or regulation of the Town Code.

Sec. 90.12 Escrow accounts.
At the time of submission of any application or thereafter, it is required that an escrow account be established, from which withdrawals shall be made to reimburse the Town for the cost of professional review services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the Town Manager, based on evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any Town invoice for such services as they are submitted to the Town. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement for such additional deposit, the Town may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding. A building permit, Certificate of Use and occupancy or other action shall not be issued unless all professional review fees charged in connection with the application have been reimbursed to the Town. Once all pertinent charges have been paid, the Town shall refund to the applicant any funds remaining on deposit.

Sec. 90.13 Collection of fees.
The Town Manager or designee shall collect all fees required pursuant to this Article.

Article II Administration and Enforcement

Division I Planning and Zoning Board



Sec. 90.14

Created.

There is created a Town Planning and Zoning Board.

Sec. 90.15

Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

1. Membership/quorum: The Planning and Zoning Board membership and quorum requirements for zoning matters and design review matters are as follows:
 - a. Zoning matters: The Planning and Zoning Board, when performing its zoning functions, shall consist of five (5) members. One of the board members must be a Florida licensed architect. Each Commissioner shall be entitled to one (1) Board appointment, not subject to majority approval. The Town Commissioner responsible for appointing a Florida licensed architect shall rotate through the Commission beginning with Seat 1. Three (3) members present at the Planning and Zoning Board meetings shall constitute a quorum.
 - b. All Board Matters: One Town Commissioner shall be a liaison, non-voting representative without a vote at all Planning and Zoning Board meetings.
2. Minimum Board Member Qualifications: All board members must have been a Town resident for a minimum period of one (1) year, except for the licensed architects, including the Florida licensed landscape architect, if applicable, who must have been a Town resident for a minimum period of six (6) months. The Florida licensed architects must have a minimum of five (5) years of practical experience in the field of landscape design. Notwithstanding this minimum number of required architects satisfying these qualifications, including residency requirements, the Town Commission at its discretion, may consider and appoint architectural members who have at least three (3) years minimum experience as a licensed architect within the State of Florida.
3. Officers: The Board shall elect one (1) of its members as chairman and one (1) of its members as vice-chairman, at its first regular meeting in April of each year. In the event of the resignation, removal, or inability of the chairman to serve, the vice-chairman shall succeed to the chairman position for the unexpired term; and the Board shall, thereupon, elect one (1) of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In the chairman's absence, the vice-chairman shall preside. The chairman shall submit all Board reports and recommendations to the Town Commission, by and through the chairman, vice-chairman or the Town Commission liaison member. The Town shall provide a secretary for the Board and the Town Clerk shall be custodian of all records, books and journals of the Board.
4. Board Member Term(s): The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the Board as provided in Paragraph (e) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed.



5. Vacancies: A vacancy shall exist: (1) on the date that any member ceases to possess the minimum required membership qualifications provided herein; or (2) when a board member has been absent from three (3) consecutive regularly convened board meetings or has been absent from five (5) regularly convened board meetings within a board year. Vacancies on the Board shall be filled by appointment for the unexpired term in the same manner as original appointments are made.
6. General regulations governing members: Board members shall be appointed in accordance with all applicable state, county and Town ethics laws, rules and regulations. Appointed members of the Board shall not, during their term, hold any other public office, paid position or serve on any other board under Town government, except as a temporary board member, or that of a voluntary fireman.
7. Expenditures; indebtedness: The Town Commission may authorize the expenditure by the Planning and Zoning Board of such funds as the Town Commission may deem necessary to perform the requirements of this chapter. The Town Commission may appropriate from the general fund as set up in the annual budget and such sums as it may from time to time authorize the Board to expend. The Board may not incur indebtedness without prior Commission approval.

Sec 90.16

Meetings: Board Year; Timeframe; Order of Presentation; Location.

1. Board Year: The Board year shall commence on the last Thursday of April in each year.
2. Meetings on Zoning Matters/Timeframe: Regular board meetings for zoning matters shall be held on the last Thursday of each month. The chair may call special meetings and may cancel or continue meetings as may be necessary.
3. Meetings on Design Review Matters/Timeframe: The Board shall meet as needed on design review matters. The chairman may call special meetings and may cancel or continue meetings as may be necessary.
4. Order of Presentation for Zoning Matters and Design Review Matters: In order to avoid unnecessary project costs and delays, the Board shall address and finalize each project zoning matter prior to initiating each project design review, to the extent applicable.
5. Location of All Board Meetings: All board meetings shall be held in the Town Hall or Community Center.

Sec 90.17

Powers and Duties.

1. Zoning Matters: The Planning and Zoning Board shall act as an advisory board to the Town Commission on zoning matters and design review matters. The Boards' powers and duties are as follows:
 - a. To perform its responsibilities as the Local Planning Agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - b. To review and make recommendations to the Town Manager and the Town Commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - c. To review and make recommendations to the Town Commission, on applications pertaining to site plans (if applicable) zoning changes,



special use permits, conditional use variances vested rights and any other zoning applications;

- d. To conduct such studies and investigations required under the Town Code and/or requested by the Town Commission; and
- e. The Planning and Zoning Board shall have such other duties pertaining to zoning matters as prescribed by law, this Section and the Town Code.

2. Design Review: The Planning and Zoning Board shall conduct a design review for all structures to be constructed and renovated within Town limits on the terms outlined below.

Sec 90.18

Design Review Board.

The Planning and Zoning Board, when performing its design review functions shall serve as the Design Review Board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the Commission and two (2) additional Florida licensed architects, one (1) of which may be a Florida licensed landscape architect. Both of these architects shall be appointed by a majority of the Town Commission. Four (4) members present at the Planning and Zoning Board design review meetings shall constitute a quorum and at least one (1) of the four (4) members shall be a licensed architect.

- 1. Purpose. This Section is intended to promote excellence in architectural and urban design; preservation of the Town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, the Design Review Board is hereby created to review and make advisory recommendations to the Planning and Zoning Board as to whether the design of new developments and/or improvements within the Town are consistent with and in conformance with the Design Guidelines set forth in the Town Code. The Design Guidelines are attached thereto as Exhibit A provided that the Town Commission may amend said Guidelines from time to time via Resolution. The Guidelines as amended, shall govern and be applied as fully set forth herein.
- 2. Design Review Procedure:
 - a. All applications for new developments or improvements that are subject to the Town's adopted Design Guidelines shall be referred to the Board for review and consideration.
 - b. The Board shall review each application whether for development of single family, multi-family, commercial or other districts for conformity with the Town's adopted Design Guidelines and recommend the application to the Planning and Zoning Board for approval, approval with conditions, or disapproval of the application. No applicant shall be required to appear before the Design Review Board more than twice per application.
 - c. Meetings held by the Board for review and recommendations of applications shall be arranged to permit participation by the person or group making the application or request and representatives of such person or group, if desired. Architectural plans and drawings of the building facades, lists of finish materials and other information necessary to provide adequate insight into the proposed development/improvement shall be provided to the Board by the person or group making the proposal or request.



3. Design Review application fees are set forth in the Town designated fee schedule.
4. All meetings of the Design Review Board shall be publicly noticed.

Sec. 90.19
90.19.1

Single-family and two-family development review process

Permits. No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a building permit from the Building Official. Such permit shall require conformity with the provisions of these regulations. When issued, such permit shall be valid for a period of one hundred eighty (180) days. However, the Town Manager or designee may grant an extension to the permit due to an uncontrollable act of nature of up to one hundred eighty (180) days.

90.19.2

The Building Official reviews all applications for building permits or certificates of occupancy for compliance with the provisions of the Zoning Code and all other applicable codes. The Building Official shall issue a building permit if the applicant demonstrates that the proposed development is in compliance with all applicable codes and in compliance with any and all development orders issued in connection with the project, and that all fees have been paid.

90.19.3

Permit Card. Upon approval of plan specifications and application for permit and payment of required fees, the Building Official shall issue a permit. The Building Official shall issue a permit card for each permit which shall bear the description of the property, identify the work being done, identify the owner and contactor and other pertinent information, and such card shall be maintained in a conspicuous place on the premises effected there by the hours of work and available on demand for examination.

90.19.4

Permit Requirements. The Florida Building Code as amended is hereby adopted as the regulation governing the construction of buildings and structures in the Town. All qualified applicants desiring a permit to be issued by the Building Official as required shall file an application in writing on a form provided by the Town. No development shall occur until and unless the Building Official has issued a building permit.

90.19.5

Design Guidelines – The Town has adopted Design Guidelines intended to provide direction and suggestions for all development. The purpose of the Design Review Board is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the Town’s adopted Guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.

90.19.6

Single-family and two-family development shall be reviewed by the Design Review Board.

90.19.7

The following shall be exempt from Design Review Board review, however, the design guidelines shall be followed:

1. Interior or rear yard fences
2. Interior renovations
3. Awnings
4. Screens
5. Driveways
6. Re-roofs



90.19.8

The following are required for submittal to the Design Review Board:

1. Application Form: Each application shall describe the land on which the proposed work is to be done by legal description, and address shall show the use or occupancy of the building or structure; shall be accompanied by plans and specifications as required; shall state the value of the proposed work; shall give such other information as may reasonably be required by the Town Manager or designee and the Florida Building Code; shall describe the proposed work and shall be attested to by the applicant and/or property owner.
2. Ownership affidavit
3. Survey less than one (1) year old. A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
4. Two (2) full-sized sets of complete design development drawings (24 X 36 sheets) signed and sealed by a Registered Architect. Eight (8) reduced sized (11 X 17) copies of the plans.
5. Surrounding Context:
Provide recent photographs of the subject property and of all abutting, diagonal and fronting properties, as visible from the street.
6. Site Plan (Minimum scale of 1" = 20'):
 - a. Show entire parcel(s) with dimensions and lot size in square feet
 - b. Show existing and proposed buildings with square footage
 - c. Show any buildings to be removed
 - d. Show all setbacks
 - e. Show dimensions and locations of all existing and proposed right-of-ways, easements and street frontage, including sidewalks, curb and gutter and planting strips
 - f. Show all existing and proposed site improvements, including, but not limited to, all utilities, retaining walls, fences, decks and patios, driveways and sidewalks, signs, parking areas, and erosion control features
 - g. Show the location of all existing and proposed trees, vegetation, palms and note tree species
 - h. Show locations and dimensions of parking spaces and lot layout
 - i. Show driveway entrance width and setbacks from property line
7. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - a. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s). They should include, at a minimum:
 - b. All exterior materials, colors and finishes, keyed to samples provided
 - c. Roof slopes and materials and color
 - d. Detail of doors, windows, garage doors
 - e. Lighting locations and details
 - f. Dimensions of structure(s) – height, width, and length



- g. Deck, railing, stairs details including materials, colors, finishes, and decorative details
- h. Exposed foundation treatment
- i. Gutters and eaves
- j. Abutting structure heights

90.19.9 Effective period of Design Review Board approval. An approval from the Design Review Board shall be effective until the development is completed except that if, after twenty-four (24) months from the date of the approval by the Design Review Board a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

90.20 **Development Review Requirements for submittals other than single-family and two-family**

1. Generally. Review and approval of a site plan by staff reviewing agencies, the Design Review Board and the Planning and Zoning Board is required prior to any development of land in the Town.
2. Process. Submit plans (sets to be determined by Town staff as appropriately needed), which are distributed to the staff members of the Development Review Group (DRG).
 - a. The DRG member shall review the site plan and prepare comments. The comments shall be forwarded to the Town Manager or designee. The comments shall be addressed by the applicant, if applicable. The Town Manager or designee shall hold a Development Review Group meeting with appropriate Town staff and the applicant to discuss the comments.
 - b. After the revisions and upon review of the final site plan by the DRG members, the site plan will be scheduled for the next available Town Design Review Board and Planning and Zoning Board meetings. If possible, the Planning and Zoning Board meeting and the Design Review Board meeting should be held on the same date. The materials required under 90.19.8 should not be duplicated for both the Planning and Zoning Board meeting and Design Review Board meeting. They shall be considered one (1) submittal package.



3. Submittal requirements for DRG, Planning and Zoning and Design Review Board are provided below.
 - a. Application. An application is required for site plan approval. This application shall include the following where applicable:
 - b. Site Plan. A site plan, the overall size of which shall be 24" x 36", drawn at a scale not less than 1" = 20' and shall include the following:
 - i. A legal description, including the section, township, and range or subdivision lot and block.
 - ii. Site boundaries clearly identified, and ties-to-section corners.
 - iii. Proposed uses.
 - iv. Location and height of all structures and total floor area with dimensions to lot lines, and designations of use.
 - v. Building separations.
 - vi. Vehicular circulation system for cars, bicycles, and other required vehicle types, with indication of connection to public rights-of-way. Location of all parking and loading areas.
 - vii. All adjacent rights-of-way, with indication of ultimate right-of-way line, center line, width, paving width, existing median cuts and intersections, street light poles, and other utility facilities and easements. Location of all cross streets and driveways within three hundred fifty (350) feet of property limits.
 - viii. Pedestrian circulation system.
 - ix. Provider of water and wastewater facilities.
 - x. Existing and proposed fire hydrant locations.
 - xi. The following computations:
 - Gross acreage.
 - Net acreage. Gross acreage covered by the property excluding road easements and rights-of-way, if any.
 - Number of dwelling units and density for residential uses only.
 - Square footage of ground covered by buildings or structures and designation of use.
 - Required number of parking spaces.
 - Number of parking spaces provided.
 - Pervious, impervious and paved surface, in square footage and percentage.
 - xii. Site Plan location sketch, including section, township, and range, showing adjacent property owners.
 - xiii. Geometry of all paved areas including centerlines, dimensions, radii, and elevations.
 - xiv. Location of trash and garbage disposal system and provisions for accessibility to garbage trucks.
 - xv. Loading areas and provisions for accessibility to vehicles of the required type.
 - xvi. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type.
 - xvii. Number of sets required shall be determined by Town Staff.
 - xviii. Other such information as required by the Town.



- c. Survey. A survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). The survey shall be prepared by a Florida registered land surveyor, certified as to meeting the requirements of the applicable Section of the Florida Administrative Code, reflecting existing natural features, such as topography, vegetation, existing paving, existing structures, and water bodies.
- d. Landscape Plan and Irrigation Plan. Landscape plan and irrigation plan with landscape calculations, existing tree survey with indication of existing native vegetation that will be preserved, as required herein.
- e. Lighting Plan. Lighting plan showing photometric measurements, lighting details and spillage onto adjacent properties and rights-of-way.
- f. Sign Plan for all signs which will be on site.
- g. Pavement markings and traffic signing plan.
- h. Schematic water and sewer plan. Plans shall include the location and size of all mains and lift stations (Note: Final engineering plans must be submitted and approved).
- i. Paving and drainage plans. Plans shall show the location of all drainage features and retention areas, if any.
- j. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - i. Show separate elevations of all sides of existing and proposed buildings with all dimensions, including height.
 - ii. Label exterior materials, color, texture and trim, roof material, roof color and pitch, windows, doors, screens, skylights and all exposed mechanical equipment and screening
 - iii. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s) and structure(s), which should include at a minimum:
 - All exterior materials, colors and finishes, keyed to samples provided
 - Roof slopes and materials including specifications and color
 - Detail of doors, windows, garage doors
 - Dimensions of structure(s) – height, width, and length
 - Deck, railing, stairs details including materials, colors, finishes, and decorative details
 - Exposed foundation treatment
 - Gutters and eaves
- k. Signs
 - i. Show dimensioned locations and mounting details of signs on building elevations and locations of signs on site plan
 - ii. Note colors, materials, lighting and dimensions
 - iii. Show dimensions and square footages (proposed and existing)
 - iv. Identify materials and colors – background, trim/border, and copy
 - v. Show fonts and graphics



90.20.1 Site Plan amendments. If an applicant's development plans change after previously receiving final site plan approval, the applicant may file an application for revised final site plan approval with the Town Manager or designee. However, no application will be considered for property that is the subject of pending Code enforcement action by the Town or that has an unpaid Code enforcement lien.

1. Site Plan Amendment Criteria.
 - a. Amendments may not be contrary to a condition of the original site plan approval or any previously approved amendment (except that conditions that were imposed for a particular use may be lifted if that use is deleted from the site plan).
 - b. Amendments may not change the character or location of any structure on the property that is not part of the main building.
 - c. Amendments may not alter the location of any points of ingress or egress from the public right-of-way, nor alter any vehicular or pedestrian flows.

90.20.2 Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require site plan approval, however, may require Design Review Board approval:

1. The deposit and contouring of fill on land.
2. Construction of a single-family home on an existing single-family lot.
3. Construction of a single duplex on an existing single lot.

90.20.3 Effective period of final site plan approval. An approved final site plan shall be effective until the development is completed except that if, after twenty-four (24) months from the date the site plan is approved by the Planning and Zoning Board a building permit for a principal building has not been issued and remains in effect, the site plan shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued. In those cases where a development includes more than one (1) principal building and it is contemplated that the development shown on a site plan will not be completed with a building permit for a principal building continuously in effect, approval by the Planning and Zoning Board of a phasing schedule must be obtained as part of the overall site plan approval. Amendments to the original site plan shall not extend this time frame unless an extension is expressly granted by the Planning and Zoning Board as a part of the approval of the amendment.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.



Sec. 90.21

Certificate of occupancy

1. No vacant land shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.
2. No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied, or changed use until a Certificate of Occupancy and compliance shall have been issued by the Building Official, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
3. Certificates of occupancy and compliance shall be applied for within ten (10) days after the erection or structural alteration of such have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Official.

Sec. 90.22

Changes and amendments

The Town Commission may, from time-to-time, amend, supplement, or change by ordinance, the boundaries of the districts or the regulations herein established.

90.22.1

Reconsideration of district boundary changes. When a proposed change in district boundaries has been acted upon by the Town Commission and disapproved or failed of passage, such proposed change, in the same or substantial similar form, shall not be reconsidered by the Town for a period of at least one (1) year following the date of such action.

90.22.2

Withdrawal of a petition. Any petition for amendment, supplement, or change may be withdrawn by a request in writing from the petitioner at any time before a decision of the Town Commission, but if withdrawn after advertisement for a public hearing or posting of the property, the same or a substantially similar petition covering the same property shall not be resubmitted, except by the Town Manager or a member of the Town Commission, sooner than one (1) year after date established for the prior hearing. Filing fees shall not be refunded upon withdrawal.

State law references: Zoning amendments, F.S. §§ 163.3194, 166.041.

Sec. 90.23

Conditional uses

90.23.1

Purpose. The purpose of this Section is to provide a process which is designed to determine if certain uses, hereafter referred to as conditional uses, should be permitted. Special review of conditional uses is required because such uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the community, but because of the nature of the use and possible impact on neighboring properties, require the exercise of planning judgment on location and site plan.

90.23.2

Conditional uses enumerated. The following uses may be approved by the Town Commission as conditional uses in any district in which they are specifically allowed, as indicated within the provisions for individual zoning districts. Approval of such conditional use(s) in accordance with the procedures and standards of this Section shall only be granted where it has been clearly shown that the public health, safety, morals, and general welfare will not be adversely affected; that adequate off-street parking facilities, in accordance with this chapter, will be provided; and that necessary safeguards will be provided for the protection of surrounding property:

1. Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.



2. Off-street parking lots and garages.
3. Public and governmental buildings.
4. Public utilities or public service uses, buildings, structures and appurtenances thereto.
5. A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.

90.23.3 Site plan required. Each application for approval for a conditional use shall be accompanied by a site plan. Such site plan shall be prepared in accordance with the provisions of Section 90.20(3)(b). In addition, each application shall be accompanied by a letter and survey indicating compliance with all of the provisions of Section 90.20(3)(b), and any additional information as may be required to permit a determination of the exact nature of the proposed use and its effect on surrounding properties, the adjacent neighborhood, and its consistency with the Town's adopted Comprehensive Plan.

90.23.4 Procedures; conditional uses.
Application and fee shall be submitted to the Town for a Conditional Use review and are subject to the requirements of Section 90.23. Applications for approval of a conditional use shall be heard by the Planning and Zoning Board for a recommendation to the Town Commission. The Planning and Zoning Board's report may contain recommendations regarding conditions which should be imposed by the Town Commission in approving the conditional use. The Town Commission may establish these and/or additional conditions for an approval by a simple majority vote.

90.23.5 The approval of a Conditional Use shall be void if the applicant does not obtain a building permit or other permit required to implement the Conditional Use within twenty-four (24) months after the granting of the Conditional Use. An applicant who has obtained approval of a Conditional Use may request an extension of this time period within the original approval period. The Town Commission may grant one or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.

Sec. 90.24 No-fee operational licensing of not-for-profit places of public assembly
A place of public assembly operated by a not-for-profit organization qualified under Section 501(c)(3) of the Internal Revenue Code and registered pursuant to Chapter 496, Florida Statutes, shall not be occupied until it obtains an operational license from the Town.

90.24.1 The operator of a qualifying place of public assembly shall obtain a form and submit an application for an operational license by contacting the Department of Building and Zoning. No fee shall be charged by the Department.

90.24.2 The Town Manager or designee shall notify the holder of any operational license, in writing, of the Town's intent to revoke an operational license if he or she determines that the following circumstances exist:

1. The Town has reasonable grounds to believe that the premises are being used in a manner that is inconsistent with, or contrary to, the provisions of the Zoning Code or any other applicable code or statute.



2. In the event of a conviction of any director of the organization holding the operational license by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the operation.
3. It has been ascertained that the holder of the operational license falsified any information on its application.
4. The holder of the operational license, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal operating hours for the purpose of investigating a complaint which has been filed against the operation.

90.24.3 The notice of intended revocation of an operational license shall state the following:

THE HOLDER OF THE OPERATIONAL LICENSE SHALL HAVE TEN (10) DAYS FROM THE DATE OF RECEIPT OF THIS NOTIFICATION EITHER TO BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A HEARING, IN WRITING, BEFORE THE TOWN COMMISSION. IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE TOWN OF SURFSIDE WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE HOLDER, THE OPERATIONAL LICENSE SHALL BE CONSIDERED REVOKED.

90.24.4 If the holder of the operational license requests a hearing before the Town Commission, the operational license shall remain in effect during the pendency of the action before the Town Commission.

90.24.5 The original of the operational license shall be posted upon the premises at all times.

Sec. 90.25 Home-based and common-area based assembly uses

90.25.1 Applicability. The standards set forth in this subsection shall apply to any proposed or existing home-based or common-area based assembly use located in the following residential zoning districts: H30A, H30B, H30C, H40 and H120.

90.25.2 Home-based and common-area based assemblies are permitted, whether for social, religious, or other reasons, as an incidental accessory use to the principal residential use.

90.25.3 Frequency of home-based and common-area based assembly uses.
Assemblies that occur four (4) or more times per month for two (2) consecutive months will be deemed to be beyond the scope of the accessory use and shall not be permitted.

- 90.25.4 Parking standard.
1. Home-based assembly uses. A home-based assembly use which results in an additional eleven (11) vehicles being parked near the dwelling unit at each assembly will be deemed to be beyond the scope of the accessory use and shall not be permitted. Vehicles parked legally on the site of the home-based assembly, or upon another parcel pursuant to a lawful agreement with the owner of such parcel, shall not be counted toward the eleven (11) vehicles.
 2. Common-area based assembly use. A common area-based assembly use which results in an additional six (6) vehicles being parked near the common-area based assembly use will be deemed to be beyond the scope of the accessory use and shall not be permitted. Additionally, the



parking demand created by such assemblies shall not exceed the supply of parking spaces provided within the shared guest or visitor parking areas allocated to common-area functions.

Sec. 90.26

Home Offices

1. Home offices are permitted in residential areas of the Town provided that:
 - a. Users of the home office are residents of the premises;
 - b. The use of the dwelling unit or residence for a home office is clearly incidental and secondary to its use for residential purposes. No outside display, storage or use of the land is permitted.
 - c. There is no change in the outside appearance of the building or premises as a result of the home office;
 - d. No equipment is used or stored on the premises that creates noise, vibration, glare, fumes, odors or electrical interference, detectable to the normal senses outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio, television set or other electronic device off the premises or causes fluctuation in line voltage or other similar nuisance;
 - e. No trash, sewage, solid waste or other waste than normal household trash and recyclables is generated. No commercial dumpsters or trash service shall be allowed;
 - f. No retail or wholesale sales on the premises shall be permitted except for telephone, mail, delivery service, internet order sales or similar electronic sales;
 - g. No traffic is generated by such home office in greater volume than would normally be expected in the neighborhood for residential purposes. No customers, clients, business associates, sales persons, invitees, assistants, outside employees, independent representatives, or the like shall visit the dwelling unit or residence for a business purpose;
2. A home office shall not be construed to include among other uses, personal services, such as the practice of medicine, chiropractic medicine, dentistry, massage, cosmetology, barbershops, beauty parlors, tea rooms, food processing for sale, kennels, animal grooming, radio and television repair, furniture refinishing or building, cabinet making, boat building, marine charter or towing service, auto servicing or rebuilding and repair for others, metal fabrication or cutting employing welding or cutting torches, or any other occupation requiring state mandated inspection of the premises;
3. No more than one (1) vehicle related to the home office shall be permitted upon the premises. Such vehicle must be twenty (20) feet or less in overall length and must be parked off any public right-of-way. All exterior storage of cargo, equipment or other materials on such vehicle shall be shielded from view at all times when such vehicle is located on a residential lot;
4. The home office activities shall be compatible with the residential use of the property and surrounding residential units;
5. The home office activities shall not involve any illegal activities;



6. The home office activities shall not result in any increase in demand on Town services as compared to the average typical residence of the same size.
7. No signs, lights, lawn markers, postings, advertising, etc. which are not compatible with the residential appearance and use of the property shall be located on or about the residence or unit.
 - a. The Town Manager or designee shall determine whether the home office meets the established criteria as set forth in Section 1 above. The determination may be appealed to the Planning and Zoning Board whose ruling shall be final and may be appealed to the Circuit Court.
 - b. A local business tax receipt must be obtained from the Town for home offices.
 - c. Nothing contained herein shall be deemed to authorize, legalize or otherwise permit a home based business that is otherwise prohibited by a legally enforceable covenant, association document or other instrument or restriction on such use pertaining to a residential unit.

Sec. 90.27

Certificates of Use

1. It is hereby deemed unlawful for any person to open or operate any business and/or occupy any structure within the Town limits for the privilege of engaging in any business prior to obtaining the required Certificate of Use.
2. No structure used for the purpose of exercising the privilege of doing business within the Town limits shall be used or occupied or any existing use enlarged, or any new use made of any land, body of water, or structure, without first obtaining a Certificate of Use therefore from the Town Manager or designee as may be required herein.
3. The Certificate of Use shall be renewable annually for all existing, new, and future business use classifications on any land, body of water, and or in any structure including the individual units within said structure within the Town limits.
4. A separate Certificate of Use shall be obtained for each place of business and for each corporation and/or legal entity within each place of business.
5. It shall be the duty of every person owning, operating, or purchasing any business within the Town limits to comply with the requirements of this division prior to opening any business and/or occupying structure.

90.27.1

Term of Certificate of Use and transfer.

1. No Certificate of Use shall be issued for more than one (1) year, and all certificates shall expire on September 30 of each year.
2. Certificates of Use may be issued for a fractional portion of a year, but no Certificate of Use shall be issued for a fractional portion of a month.
3. When there is a change of use, business, business ownership or business name the application for Certificate of Use shall be treated as new application.

90.27.2

Due date for payment of Certificate of Use fee.

1. Certificates shall be available for issuance by the Town, commencing on August 1 of each year. Both the renewal and renewal fee shall be due on October 1 of each year. If October 1 falls on a weekend or holiday, the



fee shall be due and payable on or before the first working day following October 1. Those certificates not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten (10) percent) for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid; provided, that the total delinquency penalty shall not exceed twenty-five (25) percent of the fee due.

2. Any person exercising the privilege of engaging in or managing any business without first obtaining a Certificate of Use, if required under this division, shall be subject to a penalty of twenty-five (25) percent of the fee determined to be due, in addition to any other penalty provided by law or ordinance.

90.27.3

Fees.

Fees to be charged for the purpose of administering this division are hereby imposed as follows:

1. The Town Manager or designee shall collect fee. No origination fee shall be charged for a Certificate of Use to any business within the Town limits that has a current and appropriate Certificate of Use from Miami-Dade County or the Town, but the annual renewal fee shall be charged accordingly.
2. The Town Manager or designee shall collect and annual renewal fee for the renewal of existing Certificates of Use as issued herein.
3. An application fee shall be assessed for the processing of a new application for Certificate of Use.
4. Inspections of the applicant's business premises shall be scheduled at the convenience of both the compliance officer/inspector and the business owner. If the business owner fails to be present at the time of the scheduled inspection or if the compliance officer/inspector is denied and/or unable to gain access to the business premises to conduct the requisite inspection, the business owner may be subject to being charged a reinspection fee per reinspection at the discretion of the Town Manager or designee. Additionally, after three (3) such attempts and/or denials of access to the premises the Town Manager or designee may pursue the revocation of any existing certificate(s) of use issued to the subject premises.

90.27.4

Application procedures.

1. Procedures for issuance. No Certificate of Use shall be issued or granted to any person or location to engage in any business type use named, identified or encompassed by this division unless:
 - a. An application is filed with the Town Manager or designee on forms provided for that purpose, disclosing the following:
 - (i) The applicant's name and address.
 - (ii) The name of the business for which a certificate is sought.
 - (iii) The name and address of the owner and operator of the business and if a corporation, the names and addresses of each of its corporate officers and it's resident or registered agent.
 - (iv) The type or classification of the business and the relationship of the applicant to the business.
 - (v) The location in the Town where the business will be operated.



- (vi) The date of birth and driver's license number of the owner/operator and any applicable federal employer identification numbers.
 - (vii) If the applicant is a corporation or partnership, the full name of the corporation or partnership and the state of incorporation. Applicant must submit a copy of the Articles of incorporation.
 - (viii) If the business is a corporation and is to be conducted under another name, the business name and county of registration under F.S. § 865.09. Applicant must submit a copy of the fictitious name registration.
 - b. There has been a site inspection of the applicant's business premises, except home based businesses.
 - c. The Town Manager or designee, as appropriate, has approved and assigned the zoning use classification.
 - d. The Town Manager or designee has verified compliance with all applicable laws and regulations and has collected all applicable fees due to the Town.
2. Legality of use. In the event there is a question as to the legality of a use, the Town Manager or designee, as appropriate, may require affidavits and such other information s/he may deem appropriate or necessary to establish the legality of the use, before a Certificate of Use will be issued.
3. Emergency locator. The application shall contain a section designated "emergency locator." The applicant shall fill out as part of the Certificate of Use application the names, business and residence addresses and residence and business phone numbers of the owner, and the manager or other persons to be notified in case of fire or other emergencies. Any changes in such information during the period for which the Certificate of Use is issued shall be made to the Department, in writing.
4. Certificate number. All applications and certificates shall be assigned a number.
5. Statement of accuracy. The application form shall contain the following language:

"THE UNDERSIGNED HAS CAREFULLY REVIEWED THIS APPLICATION AND ALL INFORMATION CONTAINED HEREIN HAS BEEN FREELY AND VOLUNTARILY PROVIDED. ALL FACTS, FIGURES, STATEMENTS CONTAINED IN THIS APPLICATION ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE APPLICANT ALSO ACKNOWLEDGES AND UNDERSTANDS THAT THE ISSUANCE OF A TOWN CERTIFICATE OF USE IS CONTINGENT UPON A ZONING COMPLIANCE INSPECTION AND IN CONJUNCTION WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AND TOWN BUSINESS TAX RECEIPT. FAILURE TO COMPLY WITH THE TOWN'S ORDINANCES MAY RESULT IN REVOCATION OF SAID CERTIFICATE OF USE."
6. Name; signature. The applicant shall print and sign his name to the application immediately after the statement required in Subsection 5 above. In the case of a corporation, an officer shall be required to sign the application in his individual capacity and not solely as a corporate agent.
7. Obtaining a Certificate of Occupancy prior to issuance of Certificate of Use. All businesses required to obtain a Certificate of Occupancy from



the Town Manager or designee pursuant to Section 307 of the Florida Building Code, must do so prior to the issuance of a Certificate of Use. Any Certificate of Occupancy issued by Miami-Dade County shall be honored by the Town, provided that the occupancy for which the certificate was issued remains the same.

8. State license, certification, registration required. All businesses and professions regulated by the state must submit a copy of their current state license, certification, and/or registration prior to the issuance of their Certificate of Use thereafter each year at time of renewal. Only the state license itself, or in the case of the state hotel and restaurant Commission, the receipt issued by the state, shall constitute proof of current state license.
9. Grease trap registration required. All restaurants are required to obtain a grease trap permit from the Miami-Dade County Department of Environmental Resources Management and shall provide a copy of said permit to the Town Manager or designee prior to the issuance of any Certificate of Use.
10. Fire inspection required. All businesses that require an annual inspection from the Miami-Dade County Fire Department shall submit a copy of the county fire inspection report or any such form indicating that said business was inspected and passed the requisite inspection; prior to the issuance of any Certificate of Use.

90.27.5

Grounds for denial.

1. The Town Manager or designee, as appropriate, shall have the authority to deny an application for a Certificate of Use on the following grounds:
 - a. That the applicant has failed to disclose or has misrepresented a material fact or any information required by this division in the application.
 - b. That the applicant desiring to engage in the business, as described in the application, has selected a proposed site or type of business activity, which does not comply with the Town's Zoning Ordinance or other laws of the Town.
 - c. That the applicant has failed to obtain a Certificate of Occupancy as required by Section 307 of the Florida Building Code.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, Town or county law, with respect to the specific zoning use, and the applicant has violated such specific provisions.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation within thirty (30) days after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division; code compliance lien; special assessment lien and/or any other debt or obligation due to the Town under state or local law.



- i. The applicant has been denied a Town business tax receipt, or the applicant's business tax receipt has been revoked within the last twelve (12) months.
 - j. The applicant fails to permit inspection by the Town as required and prescribed herein.
2. Any person, whose application has been denied as provided herein shall have the right to apply for a variance and/or public hearing. Such application shall be governed in accordance with any Town or local ordinance or law.

90.27.6

Renewal of Certificate of Use.

1. Renewed certificates will not be issued until all delinquent payments for any fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law has been paid in full.
2. The Town shall endeavor to notify all certificate holders that their Certificates of Use are due for renewal. However, if such certificate holder does not receive a renewal notification, it is responsibility to renew the Certificate of Use prior to October 1, to avoid delinquent charges.
3. Any current Certificate of Use may, at the discretion of the Department, be renewed for each new certificate year without the need for a new application, provided the applicant signs the following certification:
"I THE UNDERSIGNED HEREBY CERTIFIES THAT THE CERTIFICATE OF USE FOR WHICH I AM NOW APPLYING IS ONE FOR A RENEWAL OF A CURRENT CERTIFICATE OF USE WHICH IS NOW IN FULL FORCE AND EFFECT. I HAVE NOT CHANGED THE AUTHORIZED USE OF THE PREMISES NOR HAVE I MADE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES AND DO NOT PLAN TO MAKE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES."
4. Any renewal application in which the applicant changes the authorized use of the premises or makes or proposes any physical or structural changes in the premises shall be reprocessed as if the certificate were a new application.

90.27.7

Display of certificate.

Each Certificate of Use issued by the Town shall be displayed conspicuously at the place of business and in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the Town. Failure to display the certificate in the manner provided for in this Section shall subject the owner/operator to applicable code compliance procedures and/or any other remedies as permitted by law.

90.27.8

Duties of Building Department.

1. The Building Department, among other duties, shall collect all fees and shall issue certificates in the name of the Town to all persons or businesses qualified under the provisions of this division and shall:
 - a. Verify that the applicant is in compliance with all applicable laws and regulations of the Town as prescribed herein.
 - b. Investigate and determine the eligibility of any applicant for a certificate and/or the current status of any certificate as prescribed in this division.
 - c. Accept applications for Certificates of Use and review for completeness.



- d. Inspect the applicants' premises for compliance with the applicable building codes identifying any necessary building permits and/or any building code violations.
 - e. Coordinate with Miami-Dade County Fire Department and the Department of Environmental Resources Management to obtain copies of respective approvals as necessary.
2. The Town Manager or designee, as appropriate, shall among other duties:
- a. Approve and assign the zoning use classification for each business premises.
 - b. Examine the books and records of any applicant or certificate holder when reasonably necessary for the administration and compliance of this division.
 - c. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any certification, at the applicant's request, state in writing the reasons therefore and deliver them to the applicant.
- 90.27.9 Examination of records.
It shall be unlawful for any person and/or business to refuse to allow the Department to investigate and examine relevant records for the purpose of determining whether such person and/or business has a certificate and/or whether such person and/or business shall be issued a certificate.
- 90.27.10 Approval of business location required.
No Certificate of Use shall be issued for any business until the zoning use classification of the business premises is first approved by the Town Manager or designee, as appropriate; and the Department verifies that the applicant is in compliance with all applicable laws, and other regulatory ordinances of the Town.
- 90.27.11 Lost or stolen certificates; issuance of duplicate.
A duplicate Certificate of Use shall be issued by the Town Manager or designee, as appropriate, to replace any certificate or special permit previously issued which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the certificate holder upon the filing by the certificate holder of an affidavit sworn to before a notary public of this State attesting to that fact. A duplication fee shall be charged for each duplicate certificate.
- 90.27.12 Obtaining certificate by false statement.
Any Certificate of Use obtained under the provisions of this division upon a misrepresentation of a material fact shall be deemed null and void and the certificate holder who was thereafter engaged in any business under such certificate shall be subject to compliance action for doing same without a Certificate of Use with the same effect and degree as though no such certificate had ever been issued.
- 90.27.13 Illegal activity not approved by certificate.
The issuance or possession of a valid Certificate of Use obtained under the provisions of this division does not constitute an approval of any offense, illegal activity or act prohibited by law.
- 90.27.14 Revocation of Certificate of Use.
The Department, in consultation with the Town Manager or designee, as appropriate, is granted the authority and charged with the duty to revoke, refuse to renew or suspend any Certificate of Use as follows:



1. A Certificate of Use issued under this division may be revoked, suspended, or renewal of said certificate refused on the following grounds.
 - a. The certificate holder has failed to disclose or has misrepresented a material fact or information required by this division in the application. If an intentional misrepresentation of a material fact is discovered.
 - b. The certificate holder does not engage in the business as described in the application or has changed the use without authorization.
 - c. The certificate holder allows the premises to be utilized for solicitation for prostitution, pandering, lewd and lascivious behavior, sale, distribution or display of obscene materials or conduct; sale or possession of any controlled substances or narcotics.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, town or county law and the applicant has violated such specific provisions including but not limited to violations of federal, state, or county criminal statutes, and/or violations of county and/or Town zoning, business tax receipts, and related ordinances.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law.
2. Procedure.
 - a. The Department may revoke, refuse to renew or suspend any Certificate of Use on any grounds set forth herein. The Department shall issue a written notice of intent to revoke and/or suspend that shall set forth the grounds upon which the notice is issued, the corrections necessary for compliance, and the certificate holder's right to request an administrative hearing in front of the Town Special Master, and that said appeal must be taken within thirty (30) calendar days of the service of said notice.
 - b. The thirty (30) calendar days shall be considered a warning period during which the noticed certificate holder may come into compliance as required herein. If compliance is achieved within said warning period the Department shall void the revocation and the certificate holder shall dismiss any pending appeal.
 - c. The notice shall be sent certified mail, return receipt requested, to the address provided in the application or the last known address of the applicant. Alternate service may be made by delivery of the notice of hearing to the place of business and/or posting such notice thereon. If there is no appeal taken by the certificate holder as provided herein, the Certificate of Use shall be automatically revoked. Upon revocation of the Certificate of Use, the certificate holder shall immediately cease doing business in any location listed therein.



- d. The request for hearing before the Special Master to appeal the revocation notice shall stay any compliance action and the Certificate of Use shall remain in effect unless, within the sole discretion of the Department, it is determined that the grounds for denial represent an immediate threat to the health, safety, and/or welfare of the public.
3. Scheduling and conduct of hearing.
 - a. At any time prior to the expiration of thirty (30) days following the service of the notice of intent to revoke and/or suspend the Certificate of Use, the certificate holder may request in writing that the Department schedule a hearing on the basis that he/she wishes to appeal the pending revocation notice. The office of the Town Clerk, in consultation with the Town Special Master, shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as practical, provided that the hearing date is not more than forty-five (45) calendar days from the date of the Town's receipt of the timely request for appeal. The certificate holder shall receive a minimum of fifteen (15) days' written notice of the hearing which shall set forth the time and place for the administrative hearing.
 - b. The hearing shall be conducted by the Special Master.
 - c. The proceedings at the hearing shall be recorded by the Town Clerk.
 - d. The hearing shall be conducted in an informal manner and the formal rules relating to evidence and witnesses shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the Special Master finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
 - e. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witnesses regardless of which party first called that witness to testify; and to offer rebuttal to the evidence.
 - f. Requests for continuances will not be considered if not received by the Special Master at least seven (7) calendar days prior to the date set for the hearing.
 - g. The proceedings at the hearing shall be conducted as follows:
 - (i) The Department shall present testimony in evidence.
 - (ii) The certificate holder shall then present testimony in evidence.
 - (iii) Each side shall have the right of cross-examination at the conclusion of the other's presentation.
 - (iv) The Special Master shall have the right of inquiry.
 - (v) Each party shall have the right to present rebuttal evidence.
 - (vi) Upon completion of the presentations, the hearing shall be closed, and the Special Master shall analyze the testimony and evidence of record and shall render a decision either affirming or denying the determination of the Department.
 - h. The decision of the Special Master shall be reduced to writing and copies thereof shall be furnished to the Department and certificate holder within five (5) business days of the hearing.
 - (i) This decision may be appealed by writ of certiorari within thirty (30) days of such written order to the Circuit Court.



(ii) Upon the time period for such appeal having expired, and no such appeal having been filed, or upon the expiration of such appeal procedures resulting in the affirmation of the decision of the Special Master, the certificate shall stand automatically and immediately revoked and no new certificate shall be issued. Upon revocation, the certificate holder shall immediately cease doing business in any location listed therein.

i. No application for a Certificate of Use shall be considered by the Town until one (1) year after the date of any revocation or non-renewal.

90.27.15

Right of inspection.

1. Any person applying for or obtaining a Certificate of Use shall be subject to an annual inspection of the place of business.
2. For the purpose of enforcing the provisions of this division, code officials, inspectors, and compliance officers shall have the right of inspection provided that said inspection shall be reasonable and scheduled at the convenience of the applicant or certificate holder and the compliance officer or inspector. The office of the Town Attorney is hereby authorized to seek inspection warrants as necessary.
3. Notwithstanding the foregoing, a home based business need only be inspected if a complaint regarding the operation of the business is received and subsequently observed by the Town Manager or designee.

90.27.16

Penalties for offenses.

Any person who violates any section of this division shall be subject to the issuance of a civil penalty to be issued in accordance with the code compliance code.

Division II

Nonconforming uses, lots and structures

Sec 90.28

Nonconforming Uses and Structures – Purpose and Scope

The purpose of this rule is to regulate and limit the development and continued existence of unlawful uses, structures and lawful uses established prior to the effective date of this Zoning Code which does not now conform to the requirement of this Code.

Revisions of this Section are designed to curtail substantial investment and non-conformity and to bring about the eventual improvement or elimination in order to the preserve the integrity of the restorations in a character of the Town. Any non-conforming structure or lot which lawfully existed on the date of the adoption of this Zoning Code and which remains non-conforming and any lot which has become non-conforming as the result of the adoption of this Zoning Code or any subsequent amendment thereto may be continued only in accordance with the terms of this Article.

Moving a non-conforming structure. A non-conforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements whether the district to which the structure is moved. The moving of the structure shall also comply with the requirements of other applicable Town ordinance.

Sec 90.29

Nonconforming lots

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the adoption of the ordinance from which this division was derived, or any amendment thereto which requires a larger minimum lot size than currently exists, the owner may



use such lot for improvements that conform in all other respects to applicable zoning regulations. Any existing building which may be located on such a nonconforming lot may be altered or enlarged, provided such alteration or enlargement meets all other applicable requirements of these zoning regulations, including the substantial improvements provisions.

Sec 90.30

Nonconforming use of buildings

Except as otherwise provided herein, the lawful use of a building existing at the effective date of the ordinance from which this division was derived may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made other than substantial improvements as defined by this Code, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more compliant classification. Whenever a nonconforming use has been changed to a more compliant use or to a conforming use, such use shall not thereafter be changed to a less compliant use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of passage of the ordinance from which this division was derived.

Sec 90.31

Discontinuance of nonconforming uses

No building or land, or portion thereof, used in whole or in part as a nonconforming use in any zoning district, which remains idle or unused for a continual period of six (6) months, or for eighteen (18) months during any three (3) year period, irrespective of whether or not existing equipment or fixtures which contribute to the nonconformity are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

90.31.1

Discontinuance or Destruction of a nonconforming use or structure.

1. Nonconforming use of land. If for any reason a nonconforming use of land ceases or is discontinued for a period of more than six (6) months, or for eighteen (18) months during any three (3) year period the land shall not thereafter be used for a nonconforming use.
2. Nonconforming use of building or structure. If for any reason the nonconforming use of a building or structure ceases or is discontinued for a period of six (6) months or more, the building or structure shall not thereafter be used for a nonconforming use.
3. Reconstruction after catastrophe. If any nonconforming building or structure is destroyed or damaged by a fire, flood, windstorm, natural disaster or similar event, and the cost of restoring the structure to its condition which existed immediately prior to the event does not exceed fifty (50) percent of the cost of replacing the entire structure, then the structure may be restored to its original nonconforming condition. If any nonconforming building or structure in which there is a nonconforming use, is damaged by fire, flood, windstorm, natural disaster or similar event and the cost of restoring the structure to its original condition will exceed fifty-one (51) percent of the replacement cost of the same building or structure, then the structure shall not be restored.
4. Ordinary repairs and maintenance may be made to a non-conforming structure provided that such repairs or maintenance does not exceed fifty (50) percent of the value as determined by the building official.

Ordinary repairs and maintenance in accordance with the criteria, not including repairs and maintenance that would substantially alter the



structure, result in a change of occupancy of the structure, or contravene or circumvent other provisions hereof.

Sec 90.32

Existence of nonconforming use

In case of doubt, and on a specific question raised as to whether a nonconforming use exists, it shall be a question of fact and shall be decided by the Town Commission through the special exception process after public notice and hearing and in accordance with the rules of the Commission.

Sec 90.33

Alterations or Enlargement of Nonconforming Structures

Except as provided in this Section a nonconforming structure shall not be enlarged in any manner or undergo any structural alteration unless to make it a conforming structure. Such alteration or enlargement may be permitted provide that:

1. Enlargement or alteration itself conforms to the requirement of these regulations;
2. Building non-conformity only as to height area or floor area requirements may be altered or extended; enlarged so long as it does not increase the degree of non-conformity for the applicable district.

Sec 90.34

Nonconforming uses not validated

A nonconforming use in violation of a provision of these regulations, or any provision which these regulations amend or replace shall not be validated by the adoption of these regulations.

Division III

Special exceptions, zoning changes, conditional uses and variances

Sec 90.35

Planning and Zoning Board; Applications for special exceptions, zoning changes, conditional uses and variances; rules of procedure.

Rules of procedure. The following rules shall govern procedure on all applications for special exception, zoning changes, conditional uses, and/or variances:

1. All applications shall be submitted to the Planning and Zoning Board on the prescribed form and accompanied with the prescribed fee. The Planning and Zoning Board shall be required schedule a public hearing not later than thirty (30) days after receipt of such special exception, zoning change, conditional use permit or variance request. The Board shall make its views and recommendations known to the Commission for the Commission's determination. If the Board fails to take action within the prescribed time, the Commission shall assume its duties.
2. A public hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the Town Hall at least ten (10) days prior to the public hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of three hundred (300) feet. Where practicable, such advertising shall contain, in addition to a legal description, a street address, together with the specific intended use in layman's language, i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "business zoning."
3. A notice, eighteen (18) inches by twenty-four (24) inches, shall be placed in a prominent place on the property by the applicant at his own expense denoting the following:



REQUEST FOR: _____
PLANNING AND ZONING MEETING DATE AND TIME
TOWN COMMISSION MEETING: DATE AND TIME

TOWN HALL
9293 Harding Avenue
Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE APPLICATION IS
AVAILABLE BY CONTACTING THE TOWN HALL AT _____.

Such notice to be posted not less than ten (10) days prior to such hearing.

4. A posted notice shall contain the requested use change in layman's language as in subsection (3) of this Section. Posted notice shall be of standard size in standard colors, approved by the Town Manager or designee before erection.
5. All applications for rezoning must be made and presented by the fee title owner or owners of the property sought to be rezoned or by a tenant or attorney for the owner with the owner's written approval.
6. Applications for special exceptions, variances and conditional uses shall be adjudicated by resolution.
7. Applications for zoning changes to the land use map or rezonings shall be adjudicated through the same procedures as required for ordinance adoption as required by law.
8. Application for zoning change review criteria. In order to approve an application for zoning change the Town Commission must find that the application complies with each of the following criteria. The applicant is required to provide a report at the time the application is filed which includes documentation that the application complies with each of the below criteria:
 - a. The zoning change is consistent with the comprehensive plan;
 - b. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the site;
 - c. The resulting boundaries of the zoning district are logically drawn;
 - d. The proposed change will not reduce property values in the Town;
 - e. The proposed change will enhance the quality of life in the Town; and
 - f. There are substantial and compelling reasons why the proposed change is in the best interests of the Town.
9. Resolutions for approval of special exceptions, variances and conditional use shall be sent to each member of the Planning and Zoning Board by the Town Manager following approval by the Commission (except for a rezoning of a parcel which shall be adopted by ordinance as provided by law, and forwarded to the Planning and Zoning Board in the same manner). All resolutions approving special exceptions, conditional uses and variances granted by the Commission shall be kept in a journal maintained for such purpose.
10. The hearing shall be conducted in accordance with the quasi-judicial procedures set forth in this Code.



The following applications are quasi-judicial and shall comply with the Town's quasi-judicial legislation:

- a. Site specific rezoning.
- b. Conditional use applications.
- c. Special exceptions.
- d. Variances, including, but not limited to: trees, signs, setback, distance requirements between buildings or other variances permitted by this chapter.
- e. Development of regional impact.
- f. Any other development approval deemed to be quasi-judicial by the Town Attorney.

Sec. 90.36

Variances

90.36.1

General Variances

1. Purpose, definition, scope and limitations. A variance is a relaxation of the terms or provisions of the Zoning Code of the Town of Surfside (Zoning Code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Zoning Code would result in unnecessary and undue hardship on the property. As used in this Section, a variance is authorized only for lot coverage, dimensions of yards, setbacks, other open spaces, building spacing, parking, or loading requirements.
2. Uses and height of structures not subject to variance. A variance is authorized only as set out in subsection 1.
 - a. Under no circumstances shall the Town Commission grant a variance that would allow a use of property that is not allowed within the zoning district under the Town of Surfside Comprehensive Plan and the Zoning Code.
 - b. Under no circumstances shall the Town Commission grant a variance that would allow height of development and structures within the Town of Surfside that exceeds the maximum building heights that are set out in the Town of Surfside Comprehensive Plan or the Zoning Code, whichever provisions are more restrictive.
3. Nonconforming uses and structures not grounds for granting variance. Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and permitted use of lands, structures or buildings in any other district, shall not be considered grounds for granting a variance.
4. Town manager not authorized to vary terms of section. The Town Manager or designee has no authority to relax the terms of this Section. Authority to grant variances is lodged solely with the Town Commission.
5. Application requirements. An application for a General Variance shall be filed by the owner of the property upon which the variance is requested or the owners designated representative. The following shall, at minimum, be required to support a variance application:
 - a. Statements of ownership and control of the property, executed and sworn to by the owner or owners of one hundred (100) percent of the property described in the application, or by tenant or tenants with the owners' written, sworn consent, or by duly authorized agents evidenced by a written power of attorney if the agent is not a member of the Florida Bar.



- b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any easements.
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
 - d. Site plan indicating the existing and proposed structures.
 - e. A map indicating the general location of the property.
6. Staff review. The Town Manager or designee shall review the application to determine whether the proposed variance complies with the general purpose and standards set forth herein. The Town Manager or designee shall compile a written staff report summarizing the facts regarding the application, including all relevant documents. The complete staff report shall be transmitted to the Planning and Zoning Board and to the Town Commission.
 7. Review by Planning and Zoning Board and by the Town Commission. The Town Manager or designee shall schedule the General Variance application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing on the General Variance application, review the application, and make recommendations to the Town Commission for final action. The Town Manager or designee shall then schedule the variance application, including the recommendation of the Planning and Zoning Board, for a meeting of the Town Commission.
 - a. *Public hearing.* The Town Commission shall hold one (1) public hearing on the variance application.
 - b. *Action by the Town Commission.* In considering whether to approve or deny the application, the Town Commission shall review the application, the purposes and standards set forth in this Section, the staff report, the recommendation of the Planning and Zoning Board, and relevant evidence, including oral and written comments received at the public hearing. No variance shall be granted except upon the affirmative vote of at least four (4) members of the Town Commission.
 8. Standards of review. The Town Commission shall approve a variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:
 - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;
 - b. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
 - c. Literal interpretation of the provisions of the Zoning Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Code and results in unnecessary and undue hardship on the applicant;
 - d. The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Zoning Code;



- e. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;
 - f. Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;
 - g. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and
 - h. The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Zoning Code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.
9. Conditions and restrictions. The Town Commission may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set out in this Section, and to prevent or minimize adverse effects on other property in the neighborhood. Violation of such conditions and restrictions, when made a part of the terms under which a variance is granted, shall be deemed a violation of the Zoning Code, and shall constitute grounds for revocation of the variance.
10. Expiration of approval. The approval of a variance shall be void if the applicant does not obtain a building permit or other development order to implement the variance within twenty-four (24) months after the granting of the variance. An applicant who has obtained approval of a variance may request an extension of this time period within the original approval period. The Town Commission may grant one (1) or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.
11. Amendments and alterations to approved variances. Any expansion to an approved variance and any addition to or expansion of an existing variance shall require the same application, review, and approval as required under this Section for the original variance.

90.36.2

Administrative Variances

1. The Administrative Variance procedure shall be used for a variance from the provisions of the Zoning Code applying to setbacks for single-family structures only. The Administrative Variance procedures may only be used for applications which receive the approval from the Town Manager or designee. The maximum amount of the waiver is up to, but not greater than, five (5) percent for a side yard and ten (10) percent for a rear yard. No Administrative Variance shall be allowed for a front yard or corner yard.
2. An application for an Administrative Variance shall be made by the owner of the property and the application shall include:
 - a. The written consent of all the owners of all adjacent or abutting lots to the subject property, and
 - b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any Easements
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed



- ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
- d. Site plan indicating the existing and proposed structures.
- e. A map indicating the general location of the property.
- 3. The application shall be reviewed based on the following criteria:
 - a. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the Town;
 - b. That the requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the Town;
 - c. That the requested variance represents the minimum amount reasonably necessary to accommodate the requested action.
 - d. That the requested variance is consistent with the Goals, Objectives and Policies of the Town's Comprehensive Plan.
- 4. Upon receipt of the completed application for the Administrative Variance, the Town Manager or designee shall review the request and provide a result of denial or approval to the Planning and Zoning Board. The Planning and Zoning Board shall either ratify or reject the Town Manager or designee's determination. If the Planning and Zoning Board rejects the approval or denial determination, the application shall no longer continue as an Administrative Variance. The applicant shall submit a General Variance application and be subject to the General Variance procedures.
- 5. The Planning and Zoning Board shall ratify the Town Manager or designee's approval of the Administrative Variance in a Resolution. It shall be the burden of the applicant to record said Resolution in the official records of Miami-Dade County.

Sec. 90-37

Special exceptions

- 1. The following are special exceptions which may be granted by resolution of the Town Commission receiving at least three affirmative votes:
 - a. Nonconforming uses as follows:
 - i. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building.
 - ii. To determine the existence of a nonconforming use.
- 2. Other special use exceptions as follows:
 - i. To determine, in cases of uncertainty, the classification of any use not specifically named in these regulations; provided, however, such use shall be in keeping with uses specifically listed in the district.
- 3. The Town Manager or designee shall review the application and shall compile a written staff report summarizing the facts regarding the application and the complete staff report shall be transmitted to the Planning and Zoning Board. The Town Manager shall schedule the application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing and shall make a recommendation to the Town Commission for final action.



Sec. 90-38

Lapse of special exception or variance.

After the Town Commission has approved a special exception or granted a variance, or the Town Manager or designee has approved an Administrative Variance, the special exception or variance so approved or granted shall lapse after the expiration of two (2) years from its effective date if a building permit has not been issued, or if no substantial construction or change of use has taken place in accordance with the plans for which such special exception, or variance was granted. However, the Town Commission may grant an extension of up to six (6) months prior to the expiration of the original approval for good cause shown by the applicant.

Article III

Establishment of Zoning Designations

Sec. 90.39

Zoning Districts

In order to regulate the overall character of the Town, in an effort to restrict the massing, volume and bulk of building masses hereafter erected or structurally altered and to ensure the character and livability of the Town, the following zoning designations are hereby established. These designations further restrict the location of uses, location of buildings and the use of lot areas and regulates and determines the areas of yards, and other open spaces within and surrounding such buildings. Of primary importance is the designations' ability to control development to ensure a high quality environment that is comfortable, pedestrian friendly, safe and livable.

- 90.39.1 H30A and H30B – Districts wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.1.1 Purpose: The purpose of the H30 A&B districts is to protect the excellent character and scale of the single-family development now prevailing throughout much of the Town by preventing encroachment of incompatible uses and new structures that do not adequately respond to the overall scale of the existing context.
- 90.39.2 H30C: District wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.2.1 Purpose: The purpose of the H30C district is to permit single-family, two-family, multi-family and hotel structures no more than thirty (30) feet in height.
- 90.39.3 H40 – District wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.3.1 Purpose: The purpose of the H40 district is to permit single-family, two-family, multi-family and hotel structures no more than forty (40) feet in height.
- 90.39.4 H120 – District wherein building masses are restricted to a maximum building height of one hundred twenty (120) feet.
- 90.39.4.1 Purpose: The purpose of the H120 district is to permit multi-family dwellings and hotels no more than one hundred twenty (120) feet in height.
- 90.39.5 SD-B40 – Special district wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.5.1 Purpose: The purpose of the SD-B40 district is to permit businesses no more than forty (40) feet in height.
- 90.39.6 Municipal: Community and Town owned facilities. Municipal zoning districts are assigned as municipal owned lands are aggregated.



Sec. 90.40

Regulating Maps

The zoning classification thereof shall be shown on a map designated as the Zoning Map of Surfside. This zoning map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations by the Clerk of the Town. Such map shall be available for public inspection in the offices of the Town Clerk and the Town Manager and any later alterations to this map, adopted by amendment as provided in these regulations, shall be similarly dated, filed, and made available for public reference.

- 90.40.1 Purpose. The intent and purpose of the regulating maps is to identify certain specific areas that, by virtue of their location, the Town desires to require features that promote the safety, comfort and convenience of the pedestrian.
- 90.40.2 Map symbols. A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines which such name or letter-number combination is shown or indicated, except as otherwise provided by this Section.
- 90.40.3 Interpretation. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:
 - 90.40.3.1 In cases where a boundary line is given a position adjacent to or within a street or alley, easement, or canal, it shall be deemed to be in the center of the street, alley, easement, or canal and if the actual location of such street, alley, easement or canal varies slightly from the location as shown on the district map, then the actual location shall control.
 - 90.40.3.2 In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
 - 90.40.3.3 Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be re-subdivided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of these regulations are bounded approximately by lot lines, such lot lines shall be construed to be the boundary of such districts unless such boundaries are otherwise indicated in the map or by ordinance.
 - 90.40.3.4 All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town limit line.

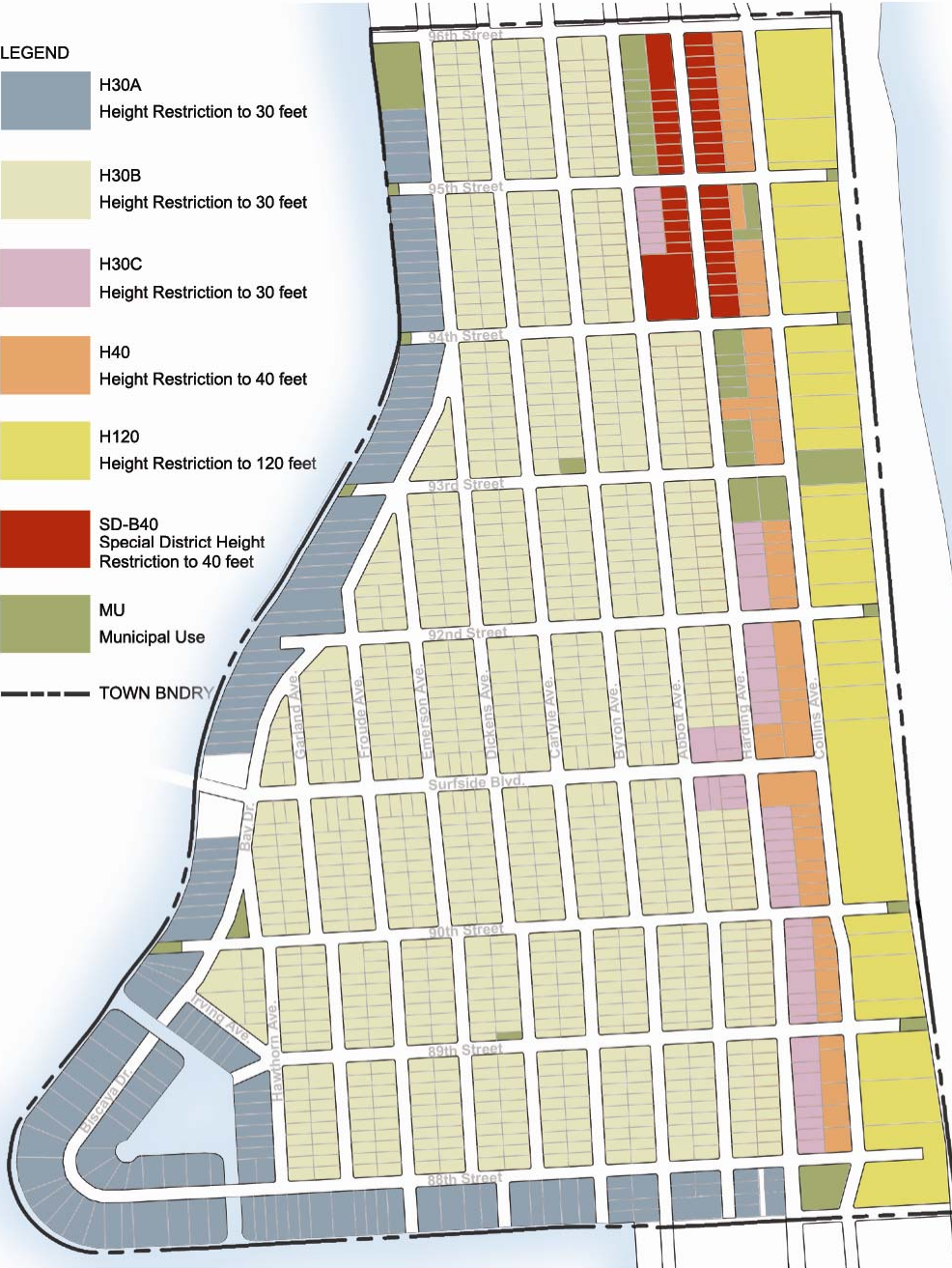


TOWN OF SURFSIDE ZONING MAP



LEGEND

-  H30A
Height Restriction to 30 feet
-  H30B
Height Restriction to 30 feet
-  H30C
Height Restriction to 30 feet
-  H40
Height Restriction to 40 feet
-  H120
Height Restriction to 120 feet
-  SD-B40
Special District Height
Restriction to 40 feet
-  MU
Municipal Use
-  TOWN BNDRY





Article IV District Regulations

Sec. 90.41 Regulated Uses

Applicability and validity of tables – nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

90.41.1 Purpose. Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.

90.41.2 Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.

90.41.3 Table – Regulated Uses

	H30A	H30B	H30C	H40	H120	SD-B40
Residential Uses						
Detached Single Family	P (1)	P (1)	P(1)	P(1)	P(1)	-
Duplex	-	-	P	P	P	-
Multi-Dwelling Structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
Lodging Uses						
Hotel	-	-	P(7,19)	P(7)	P(7)	-
Suite-Hotel	-	-	P(7,19)	P(7)	P(7)	-
Office Uses and Professional Services						
Banks	-	-	-	-	-	P
Business and Professional offices, except veterinary offices	-	-	-	-	-	P
Currency exchange	-	-	-	-	-	P
Delivery service	-	-	-	-	-	P(9)
Employment agencies	-	-	-	-	-	P(9, 17)
General Ticket Agencies	-	-	-	-	-	P
Interior decorator	-	-	-	-	-	P
Loan or mortgage office	-	-	-	-	-	P(9)
Medical or dental clinic	-	-	-	-	-	P(9)
Radio or television station or studio	-	-	-	-	-	P(9)
Savings and loan associates	-	-	-	-	-	P
Secretarial service, mailing, bookkeeping, court reporter	-	-	-	-	-	P(9)
Stocks and bond brokers	-	-	-	-	-	P
Taxi agency	-	-	-	-	-	P(9)
Telegraph station	-	-	-	-	-	P
Telephone exchange	-	-	-	-	-	P
Title company	-	-	-	-	-	P(9)
Travel agency	-	-	-	-	-	P



	H30A	H30B	H30C	H40	H120	SD-B40
Retail and General Commercial Uses						
Antique Shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art Dealers	-	-	-	-	-	P
Art Supplies	-	-	-	-	-	P
Barbershops			-	-		P
Beauty Parlors	-	-	-	-	-	P (20)
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines			-	-		P(15)
Department Stores	-	-	-	-	-	P
Drug stores and sundries	-	-	-	-	-	P
Dry cleaning and laundry agency	-	-	-	-	-	P(10)
Dry Goods			-	-		P
Flowers and plants	-	-	-	-	-	P
Furniture	-	-	-	-	-	P(14)
Furrier	-	-	-	-	-	P
Gift Shops			-	-		P
Hardware, paint and wallpaper	-	-	-	-	-	P
Jewelry	-	-	-	-	-	P
Locksmith	-	-	-	-	-	P(11)
Luggage			-	-		P
Men's, women's, children's clothing	-	-	-	-	-	P
Millinery	-	-	-	-	-	P
Office machines and supplies	-	-	-	-	-	P
Pet supplies			-	-		P
Photographers and camera stores	-	-	-	-	-	P
Pottery	-	-	-	-	-	P
Sale of televisions, radios, phonograph and recording equipment	-	-	-	-	-	P
Sheet music and musical instruments			-	-		P
Shoe Repair	-	-	-	-	-	P(21)
Shoes	-	-	-	-	-	P
Sporting goods			-	-		P
Stationery and greeting cards	-	-	-	-	-	P
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P
Video tapes sales and rentals	-	-	-	-	-	P(12)
Food Services						
Bakeries	-	-	-	-	-	P(8)
Candy and Nut Shops			-	-		P(13)
Caterers	-	-	-	-	-	P
Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit Shops			-	-		P(13)



	H30A	H30B	H30C	H40	H120	SD-B40
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor Stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
Educational Services						
Dance or music instruction studios	-	-	-	-	-	P(9, 16)
Driving school offices			-	-		P(9, 22)
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public Schools	-	-	P	P	-	-
Places of Assembly						
See RLUIPA Map and Ordinance 07-1479	-	-	P	-	-	P
Civic Uses						
Parks & Open Space	P	P	P	P	P	-
Playgrounds	P	P	P	P	P	

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes

Uses	Municipal
Library	P
Parks & Open Space	P
Playgrounds	P
Community Center	P
Gymnasiums	P
Town Offices	P
Police Facilities	P
Pump Stations	P

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted

	H30A	H30B	H30C	H40	H120	SD-B40
Accessory Uses						
Boat Docks + Moorings	P (2)	-		-	-	-
Game Courts	P (2)	P (2)	P(2)	P (2)	P (2)	-
Home Bar-B-Q Grills	P (2)	P (2)	P(2)	P (2)	P (2)	-
Laundry/Service Rooms	-	-	P(5)	P (5)	P (5)	-
Office Spaces	-	-		P (3)	P (3)	-
Recreational Rooms	-	-	P(4)	P (4)	P (4)	-
Subordinate Buildings	-	-		-	-	P (18)
Swimming Pools	P (2)	P (2)	P(2)	P (2)	P (2)	-
Vending Machines	-	-	P(6)	P (6)	P (6)	-
Parking	-	-	P	P	-	P

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted



Sec. 90.41.4

Uses Table Notes

1. Detached single-family dwellings, subject to the following restrictions and limitations, as follows:
 - a. No structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose which is designed, arranged or intended to be used or occupied for any purpose other than as a one-family residence, including every customary use not inconsistent therewith.
 - b. Every use not specifically authorized and permitted is prohibited and nothing herein shall authorize or be construed to permit the renting of a room or a portion of the property or improvement; or, to permit the use of any part of the premises as a business, office or establishment for the purpose of carrying on any business or the practice of rendering personal, trade or professional services, except as provided under the "Home Office" provision of this Code.
 - c. An accessory or subordinate building, attached or detached from the main premises in a single-family district, shall be construed to permit the use of such building for the purposes of garages, cabanas, storage and home workshops (non-commercial). However, nothing herein shall authorize or be construed to permit the occupancy or the use of any accessory building or structure, as a place of abode or dwelling, and no cooking or kitchen facilities shall be permitted.
 - d. When a garage is converted for any other use, the garage door or doors may be replaced by a solid exterior wall and access to the former garage area must be provided from the main premises, in addition to any other permitted access. At least one (1) window shall be provided. It is intended hereby to prohibit and prevent any violation of the single-family classification and to minimize the burden upon the administrative forces of the Town in policing and enforcing the provisions hereof. Changes to the appearance of the residence shall not constitute a change prohibited by the "Home Office" provision of this Code. If the exterior door of the garage conversion is no longer level with grade, stairs may be installed and the exterior door must be accordingly corrected to comply with the Florida Building Code. The stairs shall be permitted to encroach no more than twenty-four (24) inches into the side or rear setbacks.
2. Shall be for private-use only limited to residents and guests only and not public access.
3. Shall be limited to an area of not more than two (2) percent of the gross floor area of the building for administration of rental units in a building containing ten (10) or more living units.
4. Shall be limited to lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.
5. Shall be for the use of residents and guests of a multiple-family dwelling and shall not be for public access. Coin-operated laundry machines may be utilized.
6. Shall be allowable only inside buildings containing ten (10) or more living units or guest rooms.
7. May provide a barbershop, beauty parlor, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand,



automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines, washing machines, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel.

8. Shall conform to the following restrictions and conditions:
 - a. That no baking shall be done on the premises for other retail or wholesale outlets.
 - b. That ovens or oven capacity is limited in total usable baking space, not to exceed in volume eighteen (18) standard pans of eighteen (18) by twenty-six (26) inches in width and length.
 - c. That adjoining properties shall be safeguarded and protected from exhaust fan or other obnoxious noises and odors at all times.
 - d. That all baking will be done by the use of electric or natural gas (not bottled gas) ovens only.
 - e. All machinery and equipment shall be entirely confined within the main building.
 - f. That the hours of baking operation shall be limited to those hours between 6:00 a.m. and 9:00 p.m.
 - g. That the entire store area shall be fully air-conditioned as required for comfort.
 - h. That baking shall not be permitted within twenty (20) feet of the store front, and shall be separated from the sales area by a partition or counter.
9. Shall only be allowed above the first floor.
10. Provided all machinery which provides cleaning or laundry services shall be separated from customer areas by a partition or counter and no customers shall be permitted to use such machinery. In addition, all dry cleaning machinery shall be non-ventilated, sealed system type machinery in which "Fluorocarbon R-113" type solvents are used.
11. Shall not be visible from sidewalk or street and shall not be permitted fronting Harding Avenue.
12. Provided all tapes sold are prerecorded, and all tapes are rated either G, PG, PG-13, or R.
13. Provided that no sales shall be made through an open window to any street, alley, driveway or sidewalk
14. Provided no repairing or servicing of furniture is permitted on the premises.
15. Coin-operated machines for dispensing goods or services are permitted, except that washing machines, dryers and other laundry-related equipment are prohibited. No coin-operated games of chance are permitted, but coin-operated games of skill are permitted within establishments solely dispensing liquor, for consumption on the premises only; provided, however, that not more than three (3) such games of skill are permitted in any such establishment, and that such games shall not be used for wagering nor for the awarding of prizes of any value.
16. Shall only be allowed above the first floor and such studios meet all of the following restrictions and conditions:



- a. That the premises be air conditioned and soundproofed.
 - b. That no dance instruction or dancing shall be visible from any sidewalk, street or alley.
 - c. That the opening and closing hours for such studios may be established by the Town Commission at its discretion at any time.
17. Shall only be allowed above the first floor and such use shall maintain at all times sufficient office space to accommodate all applicants for employment using their services and obviate the congregating or loitering of such applicants in any hallway or on any sidewalk.
 18. Shall be any subordinate building or use which is clearly incidental to and customary in connection with the main building or use, provided there shall be no open storage of products and materials, including garbage and debris, on any lot.
 19. Shall be limited only to properties between Collins Avenue and Harding Avenue.
 20. Exterior windows on the ground floor shall be screened, curtained or otherwise made opaque four feet six inches from the grade of the adjacent sidewalk so as to block the view of the interior premises from the public right-of-way. However, such screening shall not be required where only hair styling and manicures are performed within twenty (20) feet of the public right-of-way.
 21. Provided no machinery for providing repairs shall be visible from the sidewalk or street and no shoe repair shop shall be permitted on Harding Avenue
 22. Provided such use shall be limited to offices only, and shall not be interpreted in any manner as permitting the conduct of any such school's or schools' business, activities or functions upon the public streets of the town.

Sec. 90.42

Minimum Unit Sizes

Unit Sizes	Minimum Area (Square Feet)
Efficiencies	600 SF
One-bedroom Apartments	800 SF
Two-Bedroom Apartments	950 SF
Three-Bedroom Apartments	1150 SF
Hotel Rooms, each	350 SF
Suite-Hotel Rooms, each	525 SF

Sec. 90.43

Maximum Building Heights

Designation	Maximum Height (Feet)
H30A	30 FT
H30B	30 FT
H30C	30 FT
H40	40 FT
H120	120 FT
SD-B40	40 FT
MU	Surrounding Designation



Sec. 90.44
90.44.1

Modifications of height regulations.

Architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, may be erected to a reasonable and necessary height, consistent with and not to exceed the following limitations:

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H30A	3 FT	1%
H30B	3 FT	1%
H30C	3 FT	10%
H40	12 FT	10%
H120	20 FT	30%
SD-B40	12 FT	10%

90.44.2 Mechanical equipment rooms, including elevator shafts, may be allowed to exceed the maximum height limitations, not to exceed the limitations listed above, provided they shall be of a high architectural quality integral to the design of the building.

90.44.3 In the H120 district, on lots or parcels where construction is regulated by the State of Florida Coastal Construction Code, maximum height shall be measured from whatever elevation is established by the Florida Department of Environmental Protection for the first floor.

Sec. 90.45
90.45.1

Setbacks

Required Setbacks – Tables

H30A	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H30B	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage



H30C	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H40 - Harding Avenue + Less than or equal to 50 ft in width	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than 50 ft and less than 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than or equal to 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H120	Minimum Setback (Feet)
Primary frontage	40 FT
Interior side	10 FT
Rear	30 FT
Secondary frontage (Corner only)	20 FT

SD-B40	Maximum Setback (Feet)
Primary frontage	0 FT
Interior side	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

Sec. 90.46

Projections into required setbacks

In determining compliance with the minimum setback requirements established within these regulations, the controlling distance on each lot shall be measured between the applicable lot line and the closest point thereto on any building or structure erected on the lot, and no portion of any roof overhang, chimney, cornice, or other similar architectural feature shall project into any required front, side or rear yard, except as otherwise provided.



- Sec. 90.47 Yards generally, allowable projections**
- 90.47.1 Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features may project not more than twenty-four (24) inches into any required yard.
- 90.47.2 Moveable awnings may be placed over doors or windows and may project not more than three (3) feet into any required yard.
- 90.47.3 In properties designated H30A or H30B, air conditioning equipment, pool pump or other mechanical equipment may be located in a required rear setback, provided such equipment is at least fifteen (15) feet from any other single-family or two-family residence and is not visible from any street or waterway.
- 90.47.4 In the H40 district on lots with less than seventy-five (75) feet of frontage and east of Harding Avenue in H30C district, unenclosed balconies may extend into a required primary (front) and secondary (corner) setback not more than five (5) feet, and may extend into a required rear and interior side setback not more than two and one half (2 ½) feet.
- 90.47.5 In all districts except H120 district, open, unenclosed building entrance porches, platforms, stairs or paved terraces, not covered by a roof or canopy, and which do not extend above the level of the grade or entrance floor of the building, may extend or project into the required front or side yard no more than six (6) feet and the encroachments shall not provide less than a twenty-four (24) inch setback to the property line.
- 90.47.6 In the H120 district, open unenclosed balconies may extend into a required primary (front), secondary (corner), or rear setback not more than eight (8) feet, and may extend into a required interior side setback not more than five (5) feet.
- 90.47.7 In the H30C, H40, and H120 districts no more than ninety (90) percent of a balcony's footprint shall overhang the balcony on a lower level.
- 90.47.8 In the H30, H40 and H120 district a cantilevered canopy will be permitted in the required front yard, subject to the following:
1. The structure must be completely supported (cantilevered) from the main structure;
 2. The structure must be transparent in nature with a solid to transparent material ratio of no more than thirty-five (35) percent solid to sixty-five (65) percent transparent;
 3. The structure must not have a frontage of more than thirty (30) feet in width;
 4. The structure must not extend more than twenty (20) feet into the required front setback; and
 5. The structures shall not extend into any side setback area.
- Sec. 90.48 Modification of side and rear yard regulations**
- 90.48.1 The minimum width of side setbacks for libraries, places of public assembly, recreational centers and other public, semipublic and civic buildings shall be a minimum of fifteen (15) feet.
- 90.48.2 In all districts other than the H120 districts, the required side setbacks for corner lots adjoining canals or waterway shall comply with the secondary frontage setback requirements for that frontage.



90.48.3 In the H30A district, no building shall be erected within twenty-five (25) feet of the seawall on Point Lake nor within fifty (50) feet of the sea wall on Biscayne Bay or on any lots in Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.

90.48.4 Where a lot abuts an alley, the depth of the rear yard shall be seven (7) feet.

Sec. 90.49 Lot Standards

Lot Standards	H30A	H30B	H30C	H40	H120	SD-B40	MU
Minimum Lot width	50 FT	50 FT	50 FT	50 FT	50 FT	0 Ft	-
Minimum lot area	8,000 FT	5,600 FT	-	-	-	-	-
Maximum Lot coverage	40%	40%	-	-	-	-	-
Minimum Pervious area	35%	35%	20%	20%	20%	-	-



Article V Design Standards

- Sec. 90.50 Roof Deck Provisions.**
- 90.50.1 Roof decks shall be permitted in all zoning districts.
- 90.50.2 For properties designated H30A and H30B, roof decks area limited as follows:
1. Exterior and interior stairs shall be permitted
 2. No extension of stairs shall be permitted over the thirty (30) feet height limitation of the building.
 3. Roof decks shall provide ten (10) foot setbacks on the sides and rear of the building.
- 90.50.2 For properties designated H30C, H40, H120, SD-B40 and MU, roof decks are limited to:
1. A maximum of seventy (70) percent of the aggregate roof area;
 2. Shall not exceed the maximum roof height required by any abutting property's zoning designation;
 3. Shall be setback from the roofline at least ten (10) feet on all sides to provide for minimal visibility of roof decks from any public way, except on properties designated SD-B40; and
- 90.50.3 All roof decks added to existing buildings shall be inspected by a Registered Structural Engineer and Registered Architect, who shall address in writing to the Building Official the following issues:
1. How will the existing roofing system be protected or replaced to allow for the new use;
 2. Structural support strategies for any increase in live loads and dead loads;
 3. Compliance with applicable ADA requirements;
 4. Location of plumbing and mechanical vent stacks, fans and other appurtenances;
 5. Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;
 6. Added occupancy and servicing restroom facilities; and
 7. All other issues applicable in the Florida Building Code.
- 90.50.4 All work performed on an existing roof deck to allow for occupancy shall be considered a change of use and shall require both a Permit and a Certificate of Occupancy.
- Sec. 90.51 Maximum frontage of buildings**
- 90.51.1 Continuous wall frontage shall be articulated as follows:
1. H30C: For every fifty (50) feet, a minimum three (3) foot change in wall plane.
 2. H40: For every seventy-five (75) feet, a minimum six (6) foot change in wall plane.
 3. H120: For every one-hundred (100) feet, a minimum six (6) foot change in wall planes. The change shall be either vertical or horizontal.
- Sec. 90.52 Required clearances**
- As an aid to free and safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians, operators of vehicles and for property, for proposed construction hereafter, there shall be limitations on the height of fences, walls,



gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting on corner lots in all districts where front yards are required as follows:

- a. All corner properties shall provide and maintain unobstructed corner clearance areas measured a distance of twenty-five (25) feet along both the front and side lot lines, measured from the point of intersection, of the intersecting lot lines.
- b. All objects within any corner areas as previously defined shall be limited to a maximum height of twenty-four (24) inches above the established elevation of the nearest curb;
- c. Any permanent or semi-permanent structures, including trees or shrubs, with the exception of walls or fences subject to the height limitations stated herein, shall not be allowed or constructed within any part of the corner clearance areas; and
- d. It shall be unlawful for any person to plant or cause to be planted any tree or shrubs or to place any structure in the public right-of-way without a permit from the Town Manager or designee. The elevation grades of the public right-of-way adjacent to private property shall not be altered.

- Sec. 90.53 Portable Storage Units**
- 90.53.1 There shall be no more than one (1) portable storage unit allowed per site.
 - 90.53.2 The portable storage unit shall be no larger than one hundred thirty (130) square feet in area and no higher than nine (9) feet in height.
 - 90.53.3 Placement: Portable storage units shall be permitted in all zoning districts and are subject to the following restrictions:
 - a. In H30A and H30B districts: Portable storage units shall generally be placed only in a driveway.
 - b. In H40 and H120 districts, portable storage units shall be placed only in the rear or side portion of a site. Portable storage units shall not be placed in an area fronting Collins Avenue or Harding Avenue or in the front of an establishment. The placement of portable storage units in fire lanes, passenger loading zones, commercial loading zones or public rights-of-way shall be strictly prohibited.
 - 90.53.4 Duration of portable storage units shall be limited to the following:
 - a. In H30A, H30B, and H30C districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days and portable storage units shall not be placed at any one (1) site in excess of twenty eight (28) days in any calendar year.
 - b. In H40 and H120 districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days, and portable storage units shall not be placed at any one (1) site in excess of sixty (60) days in any calendar year.
 - 90.53.5 A portable storage unit shall have no signage other than the name, address and telephone number of the person or firm engaged in the business of renting or otherwise placing the portable storage unit.
 - 90.53.6 The owner and operator of any site on which a portable storage unit is placed shall be responsible to ensure that the portable storage unit is in good condition, free from evidence of deteriorating, weathering, discoloration, rust, ripping, tearing or other holes or breaks.



90.53.7 Notwithstanding the time limitations set forth herein, all portable storage units shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a portable storage unit to remain at a site for a period in excess of such time limitations.

Sec. 90.54 Accessory buildings and structures in the H30A and H30B districts:

90.54.1 Any accessory buildings not connected to the main building, except by a breezeway, may be constructed in a rear yard, subject to the following provisions:

- a. The maximum height shall be twelve (12) feet.
- b. The maximum aggregated area shall be five hundred (500) square feet
- c. The structure shall provide a minimum rear setback of five (5) feet and shall conform to all other setbacks applicable to the property.

90.54.2 Accessory swimming pools and decks, open and unenclosed, or covered by a screen enclosure, may occupy a required rear, front, or side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

90.54.3 An open, uncovered porch, patio, or terrace may occupy a required rear or interior side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

90.54.4 Tents and canvas cabanas for temporary shelter and not used for overnight sleeping or containing cooking facilities shall be considered as accessory buildings and subject to the same regulations as other accessory buildings.

90.54.5 A detached garage shall not be remodeled and used as a part of the main building

90.54.6 An attached garage may not be remodeled and used as a part of the main building unless all required off-street parking spaces are provided elsewhere on the lot.

90.54.7 A tool shed, the area of which does not exceed seventy (70) square feet, shall be permitted in a rear yard, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Side and Secondary Frontage (Corner): Per Zoning Designation

90.54.8 All accessory buildings and structures, swimming pools, and accompanying fences and landscaping, located in the front yard setback shall be subject to review by the Design Review Board.

90.54.9 All accessory buildings and structures, swimming pools, and accompanying fences shall meet all applicable requirements of the Florida Building Code.

90.54.10 No accessory building shall be constructed upon a lot until the construction of a main building has been actually completed, except where construction of main and accessory buildings is concurrent. No accessory building shall be used unless the main building on the lot is also being in use.



- Sec. 90.55 Accessory buildings and structures in the H30C, H40, SD-B40 and H120 districts:**
- 90.55.1 Non-habitable structures, including but not limited to cabanas, pergolas, gazeboes and trellises shall have a maximum height of twelve (12) feet.
- Sec. 90.56 Fences, walls and hedges**
- 90.56.1 An ornamental fence or wall not more than six (6) feet in height, as measured from crown of road, may project into or enclose any yard, except as otherwise provided herein.
- 90.56.2 The height of such ornamental fence or wall shall be measured from the elevation of the crown of the road upon the street serving the lot or building site.
- 90.56.3 An ornamental fence or wall may be placed within the front yard of side corner yard if granted approval by the Design Review Board.
- 90.56.4 Ornamental walls placed within the front yard or side corner yard shall be subject to the following:
- a. The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or
 - b. All wall surfaces above twenty-four (24) inches measured from grade shall have a maximum opacity of fifty (50) percent; or
 - c. No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.
- 90.56.5 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.
- 90.56.6 Hedges shall be no more than four (4) feet in height in the front yard and side corner yards and ten (10) feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the Design Review Board, on a case-by-case basis.
- 90.56.7 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of Section 90-52 (Required Clearances) or fire codes, including concealment of fire hydrants.
- 90.56.8 No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than one hundred and fifteen (115) feet in width shall be permitted, provided that it is understood by the property owner that the Town does not waive its right to demand removal without notice as deemed necessary within the Town's discretion and the Town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.
- 90.56.9 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may



be constructed with posts on the outside of the fence provided that the horizontal rails are at least fifty (50) percent covered by boards on the side facing away from the property on which the fence is constructed.

90.56.10 It shall be a violation under this Article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this Section and as determined by the Town Manager or designee.

90.56.11 The following fencing material shall be prohibited:

- a. Chain-link and other wire fencing
- b. Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

90.56.12 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

90.56.13 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the Town Manager or designee.

90.56.14 Temporary construction fences shall be permitted. The maximum height of such fence shall be six (6) feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

Sec. 90.57 Marine structures

The following regulations shall apply to boat docks, piers, and mooring piles, in any district:

1. Projection of docks and piers into waterways beyond the waterway line, lot line, or established bulkhead lines shall be limited as follows, subject to final approval of DERM and any other applicable agency:
 - a. Biscayne Bay: thirty-five (35) feet
 - b. Indian Creek: thirty-five (35) feet
 - c. Point Lake: thirty-five (35) feet
2. Under no circumstances shall any dock or pier be constructed so as to project into any waterway for a distance equal to more than ten (10) percent of the width of such waterway's frontage.

Sec. 90.58 Carport canopies

Carport canopies may be constructed, in a front, side or rear yard setback in the H30A and H30B districts.

1. Such canopy shall not exceed twenty (20) feet in length, nor ten (10) feet in width.
2. No canopy shall extend beyond a property line or shall be closer than five (5) feet to the rear of the street curb, and supporting pipes shall be no closer than seven (7) feet.



3. The height of such canopy shall not exceed ten (10) feet, measured from the ground level to the uppermost point of the cover.
4. A front yard canopy shall be at least five (5) feet from the side property line.
5. A canopy shall at all times remain open on all four (4) sides, if free standing, and open on three (3) sides if attached to the main building.
6. The area under a canopy must be entirely concreted or asphalted.
7. Side openings shall be at least six (6) feet, three (3) inches, in height as measured from the ground level.
8. The width of the canopy shall not be less than the width of the driveway.

90.58.1

In addition to all provisions of the Florida Building Code, the following construction standards for canvas-covered canopies are required and shall be complied with:

1. No canopy carport shall be constructed except of canvas (or similar material) covered pipe. Framework shall be galvanized Schedule 40 pipe assembled either with Schedule 40 galvanized fittings or welded and joints painted with a liquid zinc compound. For a ten (10) foot by twenty (20) foot canopy, uprights shall be of not less than one and a quarter (1 ¼) inch pipe; the perimeter shall be of not less than one (1) inch pipe and the rafters of not less than three fourths (¾) inch pipe. For a twenty (20) foot by twenty (20) foot canopy, the pipe sizes shall each be increased by one fourth (¼) inch. All uprights shall be either lag-bolted into a concrete base or, if mounted in dirt, concreted at least one (1) foot deep with a safety tee at the bottom of the pipe. The design and the minimum size of structural members shall not be less than required to resist a seventy-five (75) mile-per-hour wind with applicable shape factors. All fabric shall be designed for quick removal, which shall be required at a wind velocity in excess of seventy-five (75) miles per hour.
2. The framework height shall be a maximum of ten (10) feet and a minimum of seven (7) feet above grade. No uprights shall be installed closer than two (2) feet from the front lot line.
3. Covering material shall carry the Miami-Dade Fire Marshal's certificate of non-flammability. The material shall be attached to the framework by lacings only.

Sec. 90.59

Outdoor receiving and broadcasting antennae

No outdoor receiving or broadcasting antenna, whether tower, pole, mast, disk, bowl, planar or similar structure, weighing more than twenty (20) pounds shall be placed or erected in the Town without a permit from the Town. Only one permit shall be issued for each main building on a lot, in accordance to the following:

1. Permit application. The application for a permit shall be made to the Town Manager, accompanied by a site sketch, showing dimension and location of the antenna in relation to the site boundaries, setback lines and the existing structures on the site; and drawings by a licensed structural engineer, showing the method of permanently anchoring the antenna and listing the materials to be used in such anchoring. A landscaping or covering plan may be required when appropriate.
2. Fee. A permit fee shall be required.
3. Construction provisions; yard placement. All such antennae shall be constructed to withstand a one hundred forty-six (146) mile-per-hour wind and in accordance with the provisions of the Florida Building Code and



these regulations; and in no case shall they be placed within, or intruding into, the front or side yards of any property. In the H120 zoning district, Collins Avenue shall be deemed to be the front of the property.

4. Roof placement. No antenna requiring a Town permit shall be placed upon the roof of any structure except in the H120 zoning district.
5. Height limits-Tower, pole, mast. For aesthetic reasons, tower, pole or mast antennae, except in the H120 zoning district, shall not be more than eight (8) feet, at their highest point, above the highest point of the main structure's roof. However, such antennae for amateur broadcasting purposes (ham radio) may have antennae thirty-five (35) feet in height from the average grade of the lot, or fifty (50) feet in height, if the antennae is of a retractable type that can readily be lowered to twenty-five (25) feet or less when not in use.
6. Height limits-Disk, bowl, planar. Disk, bowl, planar or similar-shaped antennae in any zoning district, except H120, shall not exceed a total of twelve (12) feet in height above the ground, including supporting structures; and the diameter shall not exceed thirty six (36) inches. All such disk, bowl, planar or similar-shaped antennae shall be sufficiently landscaped or covered so as to obscure the antennae from view from surrounding and adjacent properties.

Sec. 90.60

Construction adjacent to bulkhead lines

90.60.1

Ocean bulkhead lines are established in Section 14-86 and the following regulations shall control construction adjacent thereto:

1. No permit shall be issued for the construction of any habitable, fully-enclosed structure which shall be closer than twenty (20) feet to the ocean bulkhead line.
2. No permit shall be issued for the repair, extension, alteration or replacement of any habitable, fully-enclosed structure lying within twenty (20) feet of the ocean bulkhead line.

90.60.2

Indian Creek bulkhead lines are established in Section 14-101 and the following regulations shall control construction adjacent thereto:

1. Permits required. It is hereby declared to be unlawful for any person to construct or erect any bulkhead, sea wall or other shore protection work along the shore line of Indian Creek in the Town without first obtaining a permit from the Town Manager or designee.
2. General limitations.
 - a. No permit shall be issued for construction, repair, alteration, extension or replacement of any structure of any nature whatsoever other than a bulkhead, seawall or shore protection work as mentioned in the preceding Section, or marine structure as mentioned in subsection 90-56, which shall be closer than twenty (20) feet to the Indian Creek bulkhead line. Provided however, that a swimming pool may be constructed no closer than fifteen (15) feet to the Indian Creek bulkhead line.
 - b. A swimming pool construction landward of less than twenty (20) feet of the Indian Creek bulkhead line shall be thoroughly investigated by a registered Structural Engineer known to the building official to be qualified to evaluate retaining walls, seawalls, bulkhead or other shore protective structures. The structural engineer shall certify that said construction will not compromise the structural capacity of the adjacent retaining wall, seawall, bulkheads or other shore protective



structure, and such construction will allow continued maintenance of said retaining wall, seawall or bulkhead, including anchors and soil supports. A certification shall be included on the drawings that the proposed construction has been designed in accordance with the Florida Building Code and all applicable laws. Upon project completion the registered engineer shall submit to the building official a letter attesting that the construction of the improvements has been observed and is in accordance with Section 307.2 of the Florida Building Code and all applicable local ordinances. The letter shall be signed and have the impressed seal of the registered structural engineer, as applicable.

- c. No permit shall be issued for the construction of a bulkhead, seawall or other shore protection work, unless the plans and specifications of the bulkhead, seawall or other shore protection work show that the bulkhead, seawall or other shore protection work is so located as not to extend outward beyond the Indian Creek bulkhead line as heretofore established, and shall show that the bulkhead, seawall or other shore protection work will be constructed of pre-cast concrete slab or reinforced concrete and shall have an elevation of not less than plus five feet above mean low water, U.S. Engineering Department Biscayne Bay Datum, and shall be of sufficient depth below mean low water to ensure the retention of all fill or soil on the landward side thereof, and of sufficient weight and strength to withstand hurricanes, windstorms and high tide waters and waves incident thereto.

90.60.3 All structures on Biscayne Bay and Point Lake shall be required to obtain a permit and meet the setbacks and general limitations established in subsection (b) of this Section (Indian Creek bulkhead lines).

90.60.4 All applications for building permits on properties designated H30A shall include a certified survey showing the point of intersection of the Indian Creek or other regulated seawall line with the adjacent side lot lines and/or street lot lines of the property on which construction is proposed, together with a certificate of a registered engineer or surveyor indicating that all of the work proposed to be done under the permit complies with all provisions of this Section.

90.60.5 The owner of the property on which or adjacent to which any such seawall, bulkhead or other shore protection work shall be constructed, in accordance with a permit issued in accordance with the provisions of this Section, shall furnish to the Town Manager or designee a certificate signed by the owner and the contractor doing the work, that such seawall or bulkhead has been erected or constructed in strict accordance with the terms of such permit and the plans and specifications submitted for such work.

Sec. 90.61
90.61.1

Paving in front and rear yards in H30 and H40 Districts

Front setbacks in the H30A, H30B, H30C or H40 districts shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater.

- a. Not less than thirty (30) percent of the front yard shall be landscaped.
- b. Not less than twenty (20) percent of the rear yard shall be landscaped.
- c. No front yard shall be accessible by vehicles from a public street by more than two (2) curb cuts.
- d. No curb cut shall be located within five (5) feet of a side lot line.
- e. Where there is a single curb cut for any one property, the curb cut shall not be more than eighteen (18) feet in width.



- f. Where there are two curb cuts for any one property, the curb cuts shall not be more than twelve (12) feet in width, and there shall be at least twelve (12) feet between curb cuts. Where a driveway is installed with two (2) curb cuts, a landscaped island containing at least sixty (60) square feet shall be provided between the curb cuts in the front yard area, extending from the front property line to the paved area.
- g. On corner lots where vehicular access and off-street parking are provided in a side yard, these same regulations shall apply also to the side yard. Such side yards shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater and not less than thirty (30) percent of the side yard shall be landscaped.

Sec 90.62

Outdoor lighting

To assure that outdoor lighting is in harmony with the site architecture design, the adjacent area and the neighborhood; and to prevent a nuisance to adjacent properties or creation of traffic hazards on adjacent streets by reason of glare, reflection or the like; outdoor lighting for areas such as but not limited to, off-street parking, security or any other purposes, shall be permitted under the following conditions:

- a. Plans indicating the location of the lighting fixtures; type of lights, height of lights and levels of illumination; shade, type and height of lighting poles; and bases, deflectors and beam directions shall be submitted to the Town Manager or designee for approval.
- b. Lighting fixtures and lighting poles, including mounting bases, shall not exceed eighteen (18) feet in height from grade, shall be of decorative nature and shall be in harmony with the site architecture design, the adjacent area and the neighborhood. Decorative lighting poles and bases shall be constructed of anodized aluminum, pigmented concrete, fiberglass or other materials of similar characteristics as approved by the Town Manager or designee.
- c. Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one half (1/2) foot-candle (vertical) and one half (1/2) foot-candle (horizontal) illumination on adjacent properties. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered architect or engineer is provided to the Town Manager or designee, certifying that the installation has been field-checked and meets the requirements set forth above.
- d. The Town Manager or designee may issue a permit for such proposed outdoor lighting, if, after review of the plans and after consideration of the design characteristics of the lighting fixtures and lighting poles and bases, they are found to be in harmony with the site architecture design, the adjacent area and the neighborhood, will be deflected, shaded and focused away from adjacent properties; and will not be a nuisance to adjacent properties and traffic.
- e. All of the foregoing installations shall conform to the Florida Building Code.
- f. Lighting on properties designated H120 shall provide fixtures and shields to maintain light shed cut offs in accordance with regulations of the Department of Environmental Protection, specifically as it relates to properties fronting or adjacent to turtle nesting habitats



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- Sec. 90.63** **Miscellaneous elevations for seawalls, and groins**
90.63.1 The elevation for the top of shore end of all groins or other shore protective work shall be plus five (5) feet above mean low water.
- 90.63.3 The elevation for the top of seaward end of all groins and other shore protective work shall be plus two and one half (2 ½) feet above mean low water.
- 90.63.4 The elevation of the top of all seawalls fronting on the waters of Biscayne Bay, Indian Creek and Point Lake shall be plus five (5) feet above mean low water.
- Sec. 90.64** **Combined lots**
Where two (2) or more parallel adjoining and abutting lots under a single ownership are used, the exterior property lines so grouped shall be used in determining setback requirements. Provided, however, that no structure shall be constructed, altered or maintained on a single lot in any zoning district which does not conform with the setback requirements applicable to such lots, irrespective of the common ownership of abutting lots, unless and until a restrictive covenant running with the title to such lots, assuring obedience to setback requirements in a form acceptable to the Town Attorney or designee, shall first have been recorded in the public records of Miami-Dade County, Florida. Joined in such a restrictive covenant must be effected by all interested parties, including, but not limited to, dower, lien-holders, mortgagees, and all others claiming any right, title or interest in and to such real property.
- Sec. 90.65** **Boat storage**
No more than one (1) boat, not over twenty (20) feet in length may be parked temporarily on any lot in the H30A or H30B districts subject to the following conditions:
- a. Boats and places of parking shall be kept in a clean, neat and presentable condition.
 - b. No major repairs or overhaul work shall be made or performed on the premises.
 - c. Boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
 - d. The place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be within the required setback area, and no parking of boats shall take place on any public right-of-way.
 - e. The parking, storage or keeping of any boat or watercraft of any kind, or boat trailer, shall not be permitted for a period of more than four (4) hours unless they are fully enclosed within the confines of a garage.
 - f. Notwithstanding the time limitations set forth herein, boats stored temporarily on any lot in the H30A or H30B districts shall be removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.
- Sec. 90.66** **Temporary storage of campers and house trailers**
90.66.1 No house car, camp car, camper or house trailer, nor any vehicle or part of a vehicle designed or adapted for human habitation by whatever name known, whether such vehicle moves by its own power or by power supplied by a separate unit, which exceeds twenty (20) feet in length or eight feet (8) in height, shall be kept or parked on public streets or public property anywhere within the Town, nor on private property in the H30A or H30B districts, for more than twenty four (24) hours within a calendar week beginning at 12:01 a.m. Sunday and ending at 12:00 a.m. on Saturday.



90.66.2 No house car, camp car, camper, house trailer, or any similar vehicle shall be attached to any public or private external source of electricity, water, gas or sanitary sewer at any time, except that an electrical connection may be made for the sole purpose of recharging a vehicle's storage batteries.

Sec. 90.67

Emergency power generators

The following requirements apply to permanent and temporary emergency power generators located in all zoning districts:

1. Permit: The property owner must obtain a building permit for the installation of an emergency power generator.
 - a. The Town shall review all such permit applications to ensure such installations minimize the visual and acoustic impact on adjacent properties.
2. Special attention shall be paid to the placement of the generator, the use of sound attenuating materials, and the reasonable containment of sounds and exhausts, which will be created by the operation of any emergency power generator. The preferred placement shall be as follows: For all new construction, permanent emergency generators must be placed in the rear of the property; for residential structures existing as of September 1, 2006, permanent generators may be placed in the front of the house if placement in the rear is not feasible. In no instance shall generators be placed in the setbacks.
 - a. Screening: Emergency power generators that are not located within, or completely screened by a building, shall be screened from view when adjacent to or visible from a public right-of-way or from adjacent parcels of property. Screening may include the use of fences, walls, or hedges, or a combination thereof and such screening shall meet all relevant Code requirements.
 - b. Placement of temporary generators: Temporary emergency power generators shall be placed outdoors at least ten (10) feet from any opening or window.
 - c. Maintenance cycle: The generator's maintenance cycle run shall be permitted a maximum of once a week between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday only, and shall continue for no more than the manufacturer's recommended duration, but not to exceed thirty (30) minutes per cycle.
 - d. Allowed usage: Emergency power generators may only be operated for non-maintenance purposes whenever there is a power outage. Generators may not be used as a substitute for electrical power.
 - e. Code enforcement and removal: Generators, which are in violation of the provisions of this Section, shall be subject to immediate removal and code enforcement action.

Article VI

Signs

Sec. 90.68

General and miscellaneous provisions

- a. Scope: The provisions of this Division shall govern the number, size, location, and character of all signs which may be permitted either as a main or accessory use under the terms of this Division. No signs shall be permitted on a plot or parcel either as a main or accessory use except in accordance with the provisions of this Division.
- b. Purpose: This Division shall be known as the "Town of Surfside Sign Code." The Town Commission determined there was a need to amend



its sign regulations to address recent federal cases addressing sign regulation in the Eleventh Circuit Court of Appeals. The Town Commission found and determined that the Town's sign regulations were always intended to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, while meeting the need for signage that clearly identifies locations, advertises businesses, and otherwise communicates commercial and noncommercial messages recognizing that the sign regulations were designed to advance the governmental purpose of aesthetics, which has long been upheld by the state and federal courts.

Furthermore, as long ago as 1954, the U.S. Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the Town Commission to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled," in *Berman v. Parker*, 348 U.S. 26, 33 (1954), which was followed by *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980).

Because sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Assn of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and because the Town Commission found and determined that the Town's zoning regulations are required to regulate signs as provided by Sign Code 163.3202(2)(f), Florida Statutes, the Town Commission found and determined that this Sign Ordinance is consistent with all applicable policies of the Town's adopted Comprehensive Plan.

The Town Commission also found and determined that the Town has consistently adopted severability provisions in connection with its Code of Ordinances and Zoning Code, and that the Town wishes to assure that its severability provisions will be applied to its Zoning Code, including its sign regulations in Chapter 90 as provided in subparagraph d. The Town Commission recognizes that in several recent judicial decisions, the courts have failed to give full effect to severability provisions applicable to sign regulations, and expressed uncertainty over whether a local governments intent to apply the severability clause to certain factual situations despite the plain and ordinary meaning of the severability clauses.

The Town Commission is aware that the failure of some courts to apply severability clauses has led to an increase in litigation by billboard developers and other applicants seeking to strike down sign regulations in their entirety so that they may argue that their applications to erect billboards or other signs must be granted. Accordingly, the Town Commission desires that there be an ample and unequivocal record of its intention that the severability clauses it has adopted related to its sign regulations shall be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances, or other sign provisions are invalid or unconstitutional for any reason whatsoever.

The Town Commission further finds and determines that the Town has long allowed non-commercial speech to appear wherever commercial speech appears and that it has codified that practice through the adoption of a substitution clause in subparagraph "c" that expressly allows non-commercial messages to be substituted for commercial



messages. The Town Commission specifically intends that this substitution clause and past practice be applied so that its sign regulations can never be construed to impermissibly favor commercial messages over noncommercial messages, and desires to amplify this substitution clause in this Ordinance to bolster its effectiveness.

The Town further provides for the political expression of its residents, as required by *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), by allowing a permanent non-commercial sign to be posted in any residential zoning district.

- c. Substitution of noncommercial speech for commercial speech: Notwithstanding any provisions of this Division to the contrary, to the extent that this Division permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Division.
- d. Severability:
 - 1. Generally: If any part, Division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division.
 - 2. Severability where less speech results: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions on the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the Town, whether by subjecting currently exempt signs to permitting or by some other: .
 - 3. Severability of provisions pertaining to prohibited signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to 90-73, "Prohibited Signs," so that each of the prohibited sign types listed in that Section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
 - 4. Severability of prohibition on off premises signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance.
- e. *Definitions.*

Blade sign: small pedestrian signs typically supported by a decorative chain or bracket that project perpendicular from the face of the building, which are located above the storefront entry and are oriented to the pedestrian.



Cabinet or Box Sign: any sign, the face of which is enclosed, bordered, or contained within a box-like structure, frame, or other device.

Changeable Copy: a sign such as a movie marquee where slots are provided on a background for changeable letters to be added.

Community Interest Sign: a professionally prepared poster announcing an event of general public interest.

Construction Signs: a temporary sign identifying those engaged in construction or remodeling on a building site, including the developer, contractor, subcontractor, architect, engineer or artisans involved in the project.

Directory and Upper Floor Signs: a non-residential sign that lists the tenants of a building on one sign.

Flag: a piece of fabric with a color or pattern that represents a government, or other noncommercial organization or idea.

Grand Opening Banner: a sign, with or without a frame and with or without characters, letters, symbols or illustrations, made of cloth, fabric, paper, vinyl, plastic or other rigid material for the purpose of gaining the attention or persons announcing a grand opening.

Menu Holders: a sign located on a wall indicating food items, products, services or activities provided on the premises.

Monument Signs: free-standing signs located adjacent to the sidewalk independent of the building.

Murals: a graphic, artistic representation painted on a wall, not including graffiti, which contains no advertisement or relationship to any product, service or activity provided, offered or available on the premises.

Nonconforming Signs: a sign or advertising structure which was lawfully erected and maintained prior to the current provisions or this Code regulating signs, which by its height, type, square foot area, location, use or structural support does not conform to the Town's sign requirements.

Off-Premise Signs: any sign advertising a commercial establishment, activity, product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located. An off-premise sign is a principal use of the property in which it is located.

Pedestrian Sign: small signs, typically projecting signs supported by a decorative chain or bracket, which are located above the storefront entry, parallel to the sidewalk and are oriented to the pedestrian.

Political Sign: any sign which indicates the name, cause or affiliation of anyone seeking public office or which indicates any political issue.

Primary Occupancy Signs: the main sign used to identify a business. A primary sign is any sign painted on or attached to the face of the building including individually mounted letters, painted signs and awning signs.

Real Estate Signs: a temporary sign erected by the owner or agent indicating property which is for rent, sale or lease, including signs pointing to a property which is open for inspection by a potential purchaser (open house sign) or a sign indicating "shown by appointment only" or "sold."

Roof Sign: a sign erected over, across or on the roof of any building, which is dependent on the roof, parapet or upper walls of a building for support.



Sandwich or "A" Frame Sign: a movable sign not permanently secured or attached to the ground.

Sidewalk Café Signage: a sign located on an umbrella that is used as shelter for sidewalk tables.

Sign: any structure and all parts composing the same, together with the frame, background or support therefore, which is used for advertising or display purposes or any statutory, sculpture molding, casting or other objects used for advertising or display purposes, or any flags, bunting or materials used for display or advertising purposes, or for the purpose of attracting the attention of the public.

Sign Area: the square foot area enclosed by the perimeter of the sign structure. When a sign is composed of individual letters, symbols or logos only, the sign area is the area enclosed by a perimeter line (forming a single rectangle or square) enclosing all letters, symbols and logos. When a sign is a ground sign, the square foot area from the ground to the maximum height multiplied by the width equals the sign area.

Snipe Sign: a sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, walls, trash receptacles or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located. Legal notices required by law are exempt.

Temporary Signs: include a Grand Opening Banner, Community Interest Sign on Private Property, Construction Signs, Political Sign and Real Estate Signs. Temporary signs are allowed for a limited amount of time.

V-Box: a single triangular sign at one location that is at an angle of forty-five (45) degrees or less to each other.

Window Signs: any sign placed within a window facing the street.

Sec. 90.69

Sign Design Parameters

- a. All signs, unless otherwise exempt, shall be subject to review by the Design Review Board.
- b. Use of streets, waterways, sidewalks and other public property. Except as otherwise authorized by the Town Commission, no sign of any type shall be suspended across any public street, alley or waterway; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any curb, sidewalk, tree, light standard, utility pole, hydrant, traffic signal device, street sign and its pole, bridge, wall, or any other structure, which is within the property lines of any street, alley, waterway or other public property within the Town.
- c. Use of vacant lots, unoccupied buildings or temporary structures. Except as provided by Section 90.74 no sign of any type shall be suspended across any vacant lot, unoccupied building or temporary structure; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any vacant lot, unoccupied building or to any temporary structure within the Town.
- d. Removal of sign upon cessation of business. Any sign previously associated with a vacated premises shall either be removed from the premises by the owner or lessee not later than six (6) months from the time such activity ceases to exist, or such sign shall be altered or resurfaced by the owner or lessee within the same six (6) month period,



so that the sign no longer displays letters, numerals, symbols, figures, designs or any other device for visual communication that pertains to the activity formerly associated with the vacated premises. No occupational license shall be issued for a new business until all signs associated with the former business have been removed.

- e. Pest control or warning signs. All such signs shall be displayed prominently on the front lawn of property requiring this service. Signs shall not exceed a size of 8" by 10". The printed wording shall read horizontally only and shall contain only such language as is required by law or by reasonable safety precautions and a statement of the antidote to the insecticide used. The word "WARNING" shall occupy one half of the sign and the name and address of the company performing the service only one fourth of the sign, it being intended that the word "WARNING" shall be most prominent. Further, it shall be required that such sign be removed from the premises no later than twenty four (24) hours after the warning is no longer required.
- f. Definition of frontage. For the purpose of determining total sign area, running foot of frontage shall include that side of the building or lot that faces on a public street. When the building or lot is on a corner, the footage of each street shall be included in determining the total allowable frontage.

Sec. 90.70

Sign Permits

- a. Permit required. Except as provided in this Code, no permanent or temporary sign shall be erected, constructed, posted, painted, altered, maintained, or relocated until a permit has been issued by the Town. Before any permit is issued, a written application, in the form provided by the Town, shall be filed, together with such drawings and specifications as may be necessary to fully advise the Town with the location, construction, materials, manner of illuminating, method of securing or fastening, the number of signs applied for, the consent of the property owner, and the wording of the sign. Upon the submission of an application, staff shall have ten (10) days to determine whether it is complete. If staff finds that the application is not complete, they shall provide the applicant with written notice of the deficiencies within the ten (10) day period. Upon resubmission of the application, staff shall have five (5) additional days to determine whether the applicant's revisions are sufficient to complete the application. If they are not, staff will again inform the applicant of any remaining deficiencies in writing. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed "as is." All signs that are electrically illuminated shall require a separate electrical permit and inspection.
- b. Code requirements. Structural and safety features and electrical systems shall be in accordance with the requirements of the Town's adopted Building Code. No sign shall be approved for use unless it has been inspected and found to be in compliance with all the requirements of this chapter and applicable Codes.
- c. Permit review. Unless otherwise exempt, the Design Review Board shall review the sign to determine if the proposed sign is in compliance with the design review criteria.
- d. Failure to commence. Every sign permit issued by the Town shall become null and void, if installation is not commenced within ninety (90) days from the date of such permit. If work authorized by such permit is



suspended or abandoned for ninety (90) days any time after the work is commenced, a new permit including Design Review Board approval shall be first obtained to do so, and the fee will be the full amount required for a new permit for such work.

- e. Revocation. The Town may suspend or revoke, in writing, a permit issued under provisions of this chapter, whenever the permit is issued on the basis of a misstatement of fact or fraud. The written revocation shall describe the appeal process. The Town shall send the revocation by certified mail, return receipt requested, to the sign owner. Any person having an interest in the sign or property may appeal the revocation, by filing a written notice of appeal with the Town Commission within fifteen (15) days after receipt of the written notice of revocation. The Town Commission shall hear the appeal within thirty (30) days after the date of receiving the written notice of appeal.

Sec. 90-71

Permanent Signs by District

90.71.1

SD-B40 Zoning District

- a. Area.
 - 1. The total area of all exterior wall signs for any building in the SD-B40 zoning district shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, a sign up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however shall the total sign area for any operating enterprise exceed one hundred fifty (150) square feet, and no single sign in this district shall exceed forty-five (45) square feet in area.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises.
- c. Prohibited word content. Signs may not include the following:
 - 1. Any reference to price, except as provided in regards to "Window Signs."
- d. Miscellaneous.
 - 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in this district stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 - 1. With the exception of theater marquees and V-Box signs, no sign shall be erected so that any portion thereof shall project over a dedicated street or sidewalk or so that any portion thereof shall project more than five (5) feet from any main building wall.
 - 2. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located; provided, however, that signs may be installed on the rear walls of commercial buildings in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6, in the Town. Such signs shall be limited to a maximum size of twenty-five (25) square



feet and may be illuminated by a bulb with an angle reflector type shield. These signs shall not be included in computing maximum sign area for a given operating enterprise.

- f. Window signs.
1. It shall be unlawful for temporary signs of any nature to be attached by any: to glass windows or doors, or to be mounted within twelve (12) inches of the glass window or door towards which they face, except as provided in this subsection.
 2. Temporary paper signs announcing a licensed going-out-of-business sale or future business shall be permitted to be displayed within glass display windows of such business establishments not to exceed twenty (20) percent of the area of the glass.
 3. Temporary signs, professionally lettered, may be displayed within a window providing they are more than twelve (12) inches from the glass surface they are facing, and providing that in total they do not exceed in area twenty (20) percent of the area of the glass window they are facing. A temporary sign not exceeding one hundred forty four (144) square inches may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall be not more than one (1) such sign per window or door. Such sign shall not be maintained for more than fourteen (14) calendar days.
 4. Signs, not in excess of six (6) square inches, listing price, may be attached to items displayed in display windows.
 5. Signs of a permanent nature may be applied to the inside or outside surface of a glass window or door or displayed within twelve (12) inches of a glass window or door, provided that they are done in a professional manner, that the lettering does not exceed eight inches in height and that they give only the name of the establishment and the nature of the business, except sit-down restaurants may display a menu in their window or adjacent to their front door which does not exceed one and one half (1 1/2) square feet in size. Lettering not more than two (2) inches in height may be applied to either side of one window or glass door per business stating hours of operation. No other type of sign stating hours of operation or "open," "open for business," "closed," or similar signs may be displayed except as provided. Such signs shall not exceed twenty (20) percent of the area of the glass window or door in which they are displayed. In addition, each business establishment may display, at a single location on a glass window or door, not over four (4) ancillary decals, signs or logos, indicating national charge cards which are accepted therein, provided the total area of all such decals, signs or logos so displayed does not exceed one hundred and forty-four (144) square inches. The area of such decals, signs or logos shall not be included in the twenty (20) percent limitation above. Not more than one (1) primary sign may be displayed in any one window or door. All such signs shall require a permit approved by the Town Manager or designee.
- g. Lettering on awnings. Lettering shall be prohibited on awnings, canopies or valances projecting over a dedicated street or sidewalk; except that the side, perpendicular to the street, may bear the trade name of the establishment in letters not higher than five (5) inches. Where an existing awning, canopy or valance is being replaced or recovered or



substantially repaired, a permit is required from the Town, and the awning, canopy or valance must conform to this Section.

- h. V-Box signs. Any ground floor business in the SD-B40 district may attach a single sign, commonly known as a V-Box sign, of triangular section, containing a completely concealed fluorescent tube, to a permanent canopy over the sidewalk. Such sign shall be mounted perpendicular to the face of the building to which the canopy is attached, with an end (smallest side of the sign) facing the building. Such sign shall not exceed four and a half (4 1/2) feet in length and twelve (12) inches in depth, and shall allow at least an eight (8) foot clearance above the pavement. The sign shall carry only the business name.
- i. Sign for upper floor tenants. Each upper floor tenant shall be entitled to erect a single sign, not over one hundred eight (108) square inches in size, at the entrance or lobby of the building which provides egress to such upper floor. In addition, each upper floor tenant may paint a sign on one upper floor window of this establishment, which indicates the name of his business, provided such sign meets all of the requirements of this Section.

90.71.2

H30C, H40, MU and H120 Districts

- a. Area.
 - 1. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however, shall total sign area on any single operating enterprise exceed one hundred fifty (150) square feet, except as otherwise provided in this Code. For multi-family dwellings in the H30C or H40 districts, total signage shall not exceed seventy-five (75) square feet and no single sign shall exceed fifty (50) square feet.
 - 2. Such signs shall be attached to the main facade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet, or shall be erected on a metal pole or reinforced concrete post, provided that no part of such sign shall project over a dedicated street or sidewalk. Any sign in need of replacement shall conform to this Section.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises, except as otherwise provided in this Code.
 - 3. The total allowable area for all supplemental signs for any establishment hereunder reading "Vacancy," "Private Beach," "Swimming Pool," "Cabanas," "Office," "Air Conditioning," "Cocktail Lounge," "Coffee Shop," "Dining Room," "Restaurant" and other such wording shall be limited to eight (8) square feet for each main building, and such sign area shall not be included in computing the maximum sign area for the lot. In permitting the advertising by visible signs from the outside of buildings or structures presently zoned so as to permit the uses described herein, such signs shall be dignified in character, shall be restricted to the wording described above, and



no single sign shall exceed three (3) square feet in size; except, in the H120 district, a hotel with a restaurant may display a supplemental sign, not to exceed five (5) square feet in size, containing the name of the restaurant. Any such sign shall be included in the total eight (8) feet limitation.

- c. Prohibited word content. Signs may not include the following:
 1. Any reference to rates.
 2. Identification of a business conducted within hotels, apartment houses or similar structures, other than those permitted under supplemental signs, is not to be advertised by any sign visible from the outside of such building or structure in which such business is located.
- d. Miscellaneous.
 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in these districts stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 1. No sign shall be erected so that any portion thereof shall project over a dedicated street, alley or sidewalk or so that any portion shall project more than five (5) feet from any main building wall.
 2. One (1) sign may be erected on a metal pole with an area of not more than forty-five (45) square feet, including any supplemental signs; provided that no part of such sign shall project over a dedicated street, alley or sidewalk.
 3. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located.
 4. Signs not over four (4) square feet in size may be erected at each exit or entrance of parking lots serving buildings in these districts, and such signs may be illuminated by indirect lighting only. Lettering on these signs shall be limited to the name and address of the apartment or hotel, the word "Parking," and the words "For Guests Only" or "Private Parking," and designation as to whether it is an entrance or exit.
 5. Buildings on the east side of Collins Avenue abutting the beach walking path shall be required to provide emergency signage for the purpose of identifying the names and addresses of the building. The purpose is to provide Fire trucks, police patrol cars, ambulances, and other emergency vehicles knowledge of their location at all times to quicken response time in critical situations. The signage shall be subject to the following limitations:
 - a. Maximum size of eighteen (18) inches long by twenty-four (24) inches wide
 - b. Material shall be reflective to be clearly visible at night
 - c. Material shall be weatherproof
 - d. Signage shall be on a free-standing pole



- e. The address lettering and numbers shall be no more than two (2) inches in height
- f. The condominium name shall be no more than one (1) inch in height

6. Monument Signs

- a. Monument signs shall be permitted in the H30C, H40, MU and H120 districts and are subject to the following restrictions:
 - 1. One (1) sign per street frontage
 - 2. Maximum sign area is twenty-five (25) square feet
 - 3. Maximum height is five (5) feet
 - 4. Signs shall maintain a five (5) foot setback from all property lines and no portion shall be permitted to project within this five (5) foot setback area.

90.71.3 H30A and H30B Districts

- a. Home Office signs shall not be allowed.
- b. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted.
- c. Such signs shall be attached to the main façade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet. Any sign in need of replacement shall conform to this Section.

Sec. 90.72 Exempt Signs

90.72.1 The following signs are exempt from permitting requirements:

- a. Open/closed sign
- b. Hours of operation and credit card information, provided that sign does not exceed two (2) square feet
- c. Real estate signs, however if they are found to be in conflict with the provisions of the Code, the Town Manager or designee shall request the removal of the sign.
- d. Temporary signs

Sec. 90.73 Prohibited Signs

90.73.1 No sign shall be erected, constructed, or affixed in violation of the provisions of these regulations, and any sign not specifically provided for and permitted by these regulations shall be prohibited. None of the following signs shall be constructed, erected, used, operated or maintained in the Town:

- a. Billboards
- b. Temporary sign or sandwich sign except as permitted under 90-74.
- c. Off-premises signs
- d. Signs which simulate, copy or imply any official traffic signal or police caution device.
- e. Signs that contain obscene matter, or contains wording which violates any federal, state or county statute, ordinance or rule and it shall be unlawful for any person to display upon any wall or other advertising structure any



matter which is obscene or wording which violates any federal, state or county state ordinance or rule.

- f. Signs that display intermittent lights, to move or revolve.
- g. Signs which contains wording which constitutes fraudulent or misleading advertising.
- h. Sign which have spinning devices, or strings of spinning devices, or other similar devices.
- i. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.
- j. Roof signs
- k. Pennants, banners, streamers, balloons and all other fluttering, spinning or similar type signs and advertising devices, except for national flags.
- l. Neon signs

Sec. 90.74 Temporary Signs

90.74.1 Real Estate Signs

- a. No more than one (1) real estate sign per occupancy frontage shall be permitted until a project or tenant space is leased or sold in the SD-B40 district.
- b. Maximum sign area per sign is one (1) square foot by one and a half (1 1/2) square feet in the Business District (SD-B40), and shall be located flat against the building wall or within a window, and shall not project above the eave line.
- c. The sign shall be unlighted.
- d. Lots in the residential districts may mount the sign on a free-standing stakes, located outside of any sight visibility triangle so no portion of the sign extends across the property line. Such sign shall not exceed one (1) square foot by one and a half (1 1/2) square feet in size and shall not exceed thirty-six (36) inches in height above the adjacent ground. The face of the sign shall be a sound and safe material that is securely fastened to a wood or metal stake of sufficient strength.
- e. All real estate signs shall contain a white background with black text. There shall be no pictures or graphics on the sign.

90.74.2 Political Signs

- a. Signs shall not be erected or displayed more than ninety (90) days prior to the primary or general election at which the candidacy or issue being advertised is decided and all such signs shall be removed within seven (7) days after the aforementioned election.
- b. No more than one (1) sign for each candidate or issue is permitted on any developed or undeveloped property under single ownership or tenancy.
- c. No sign shall be closer than ten (10) feet from any lot line.
- d. Political signs shall not be larger than eighteen (18) inches by twenty-four (24) inches in size in the residential districts and four (4) square feet in the Business District (SD-B40). Political signs in the Business District (SD-B40) shall be located flat against the building wall or within a window, and shall not project above the eave line.

90.74.3 Removal

Notwithstanding the time limitations set forth herein, all temporary signs shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines



that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a temporary sign to remain at a site for a period in excess of such time limitations.

Sec. 90.75

Non-Conforming Signs

Any additional development of a site, or change of use, occupancy, tenant, or sign copy (with the exception of window signs) shall require that legally established, nonconforming signs shall be removed and replaced with a conforming sign. Nonconforming signs must conform to these regulations or be removed within one (1) year of the date the sign became nonconforming. A sign must have had written Town approval to be considered nonconforming. Signs not in conformance with the Code which were installed without written Town approval are illegal and must be removed or replaced immediately. Illegal signs are subject to removal by the Town at the cost of the owner and subject to code enforcement action.

Sec. 90.76

Sign Construction and Maintenance

- a. All signs shall be professionally constructed of high-quality, durable material in accordance with the Florida Building Code.
- b. Sign switches conduits and panel boxes shall be concealed from view.
- c. Signs shall be designed to be vandal and weather resistant.
- d. Signs shall be properly maintained so that they are in proper working order and do not endanger public safety. Damaged or defective signs shall be repaired within thirty (30) days.
- e. When a sign is removed for example due to replacement, or termination of the lease, the tenant or owner shall fill and paint any holes caused by the removal of the sign.
- f. All exterior electrical outlets for signs shall terminate in a galvanized or plastic box with a blank cover, which shall be flush with and not protrude beyond the finished surface of the exterior wall. Transformer boxes and other accessory equipment for any sign shall be placed so as not to be visible from the street level. Wooden signs shall not have electric lights or fixtures attached in any manner.
- g. Illuminated signs, or illumination in show windows, display windows and displays, in or upon any building or structure shall have the source of light concealed from view from the exterior of the building or structure, except that where channel letters or figures are used for any sign, the illumination thereof may be visible if recessed within the depth of the channel. Intensities of illumination in all cases shall be approved by the electrical inspector of the Town before issuance of the sign permit.
- h. Only lighting of fixed intensity shall be supplied to signs while illuminated and the use of any blinking, moving or flashing light or lights, or similar device, in window areas or store fronts is prohibited, except decorative flashing illumination may be used between December 10 and January 5.



Article VII Off-Street Parking and Loading

Division I Off-Street Parking

Sec. 90-77 Off-street parking requirements.

90.77.1 Except as otherwise provided herein, when any building or structure is hereafter constructed; or structurally altered so as to increase the number of dwelling units or hotel/motel rooms; to increase its total commercial floor area; or when any building or structure is hereafter converted to any of the uses listed in subsection (b) of this Section, off-street parking spaces shall be provided in accordance with the requirements of subsection (b) of this Section, or as required in subsequent sections of this Article.

90.77.2 The number of off-street parking spaces that shall be required to serve each building or structure and use shall be determined in accordance with the following table:

1. H30A and H30B districts: 2 spaces minimum.
2. H30C, H40 and H120 Districts:

Type of Residential Unit	Minimum Space Requirements
Single-family or Two-family	2 spaces
Multi-family – Efficiency and 1-bedroom	1.5 spaces
Multi-family – 2-bedroom and 3-bedroom	2.0 spaces
Multi-family – 4-bedrooms or more	2.25 spaces

90.77.3 For projects of greater than sixty (60) dwelling units, parking spaces may be provided as tandem spaces, provided, however, a minimum of one (1) unencumbered parking space, tandem or regular, must be provided for each dwelling unit and valet parking service shall be provided at all times. One visitor parking space for each fifteen (15) dwelling units unless tandem parking with valet services is provided in which case one (1) visitor space for each twenty (20) units is required.

90.77.4 Parking by use
a. Lodging

Type of Use	Space Requirements
Hotel and motel	1 space for each room
Suite-Hotels	1.25 space for each room

b. Place of Public Assembly

Nature of use of space	Space Requirements
Where seats and/or benches are provided	1 space for every 4 seats or 1 space for every 6 linear feet or part thereof of bench
Where fixed seats are not provided	1 space for each 50 square feet of non-administrative and congregation space



c. SD-B40 District

Type of Commercial Use	Space Requirements
Grocery, fruit or meat market	1 space each 250 gross floor area
Retail store or Personal service establishment	1 space each 300 gross floor area
Office or Professional services use, except Financial institutions	1 space each 400 gross floor area
Medical or Dental uses	1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises	1 space for every 4 seats
Financial institutions	1 space each 300 gross floor area
Educational services	1 space per classroom, plus 1 per 250 gross floor area

Sec. 90.78

Interpretation of these requirements

- a. The parking required herein is in addition to space required for the loading and unloading of trucks or other vehicles used in connection with a business, commercial, or industrial use.
- b. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- c. The parking space requirements for a use not specifically listed in this Section shall be the same as for a listed use of similar characteristics of parking demand generation.
- d. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- e. Whenever a building or use, constructed or established after the effective date of this Article, is changed or enlarged in floor area, number of dwellings or sleeping units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- f. Where a place of public assembly, as defined in Section 90-2 of this Code, has been in existence for at least ten (10) years and a variance from the parking requirements of this chapter is requested, hardships pertaining to the variance request shall not be considered self-created for purposes of consideration of the merits of the variance request.

Sec. 90.79

Restricted and prohibited parking

90.79.1

Off-street parking spaces in H30A and H30B districts shall not be located in a required front yard except as follows:

1. Driveway space for access to parking areas or garages located in a required front yard.
2. It shall be unlawful to park vehicles of any type in private driveways or front yards in said districts unless they belong to the occupant of such residence, a member of his immediate family, a resident of the household residing on the property, or a bona fide guest or visitor thereof.
3. When an automobile vehicle or motorcycle has been parked in violation of this Section intermittently or continuously during a period of three (3) weeks



and such vehicle is registered in the name of a person other than to the occupant of the property, a member of immediate family or a resident of the household residing on the property, it shall constitute in evidence a presumption that such vehicle is unlawfully parked in violation of this Section.

4. No trailer of any type may be kept in any required yard continuously for more than seventy-two (72) hours, except as may be provided in Sections 90-64 and 90-65. All trailers must display a valid license plate and registration decal as required by state law, be in operating condition and be supported by fully inflated tires on functioning wheels.

90.79.2 Where off-street parking spaces serve an existing permitted structure located in the H30C, H40 or H120 districts and occupy all or portions of the required front yard, such use may be continued until the existing structure is removed.

90.79.3 No motor vehicle, as defined by state law, shall be kept in any unpaved area of any lot or parcel in the Town.

90.79.4 No motor vehicle, as defined by state law, which is not in operating condition or which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, shall be kept in any paved area of any lot for more than thirty (30) days.

90.79.5 The off-street parking of trucks and other commercial vehicles, in excess of what is commonly known as a three-fourth-ton truck or vehicle, or any other equipment used for commercial purposes, is prohibited in anywhere in the Town, except in the SD-B40 wherein the vehicle is in the process of making an expeditious delivery, rendering services to the premises (such as electrical, plumbing or yard work) or continuously and completely enclosed within the confines of a permitted garage.

Sec. 90.80 Joint use and off-site facilities

90.80.1 All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained not to exceed three hundred (300) feet from the building served.

90.80.2 Where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a deed restriction or covenant thereby assuring their retention for such purposes shall be properly drawn and executed in recordable form by the parties concerned, approved as to form by the Town Attorney, and shall be filed with the application for a building permit.

Sec. 90.81 Shared Parking

1. Properties owned by a single entity or subject to a cross access/cross parking agreement may petition the Town Commission for approval of shared parking. The petition for shared parking shall include an independent parking study in a form acceptable to the Town which includes but is not limited to information indicating that the uses are such that a sufficient disparity in peak demand for parking spaces exists to support the concept of shared parking.
2. Required parking spaces may be permitted to be utilized for meeting the parking requirements of two or more separate permitted uses when it is clearly established by the applicant that the two or more uses will utilize the spaces at different times of the day, week, month, or year. A recordable



covenant, with the correct legal description, shall be submitted by the owners of the property and the two or more businesses or tenants involved in a form acceptable to the office of the Town Attorney. The covenant shall be recorded in the public records of Miami-Dade County at the applicant's expense, and shall run with the land. The covenant shall provide that the use or portion of a use that requires the shared parking in order to obtain the necessary permits or licenses shall cease and terminate upon any change in their respective schedules of operation that results in conflicting or overlapping usage of the parking facilities, and no non-residential use may be made of that portion of the property until the required parking facilities are available and provided. The covenant shall also provide that the Town may collect attorney's fees if litigation is necessary to enforce the requirements of this Section.

- 3. No part of an off-street parking area required for any building or use by this Section shall be included as a part of an off-street parking area similarly required for another building or use unless the type of use indicates that the periods of usage will not overlap or be concurrent with each other as determined by the Town.

Sec. 90.82 Design standards

90.82.1 *Minimum area.* For the purpose of these regulations, except as provided below, off-street parking spaces shall not be less than nine (9) feet by twenty (20) feet, exclusive of driveways, for the temporary storage of one (1) automobile. Aisles shall have dimensions as set forth in the Zoning Code of Miami-Dade County entitled "Minimum Parking Stall Dimensions," except as may be set forth below. Such parking spaces shall be connected with a street or alley by a driveway which affords ingress and egress without requiring another automobile to be moved. Handicapped parking spaces shall be consistent with Florida Accessibility Code requirements.

90.82.2 In all instances, adequate interior driveways and ingress and egress driveways shall be provided to connect all parking spaces with a public street or alley. Where a parking space heads into and abuts a sidewalk, the paved length shall be curbed in order to prevent extension of the vehicle over the sidewalk. Required parking shall comply with these provisions and such parking cannot be placed in dedicated or official rights-of-way. Private, noncommercial off-street parking shall be reserved exclusively for the tenant or owner and their customers and employees, unless otherwise approved as a result of a public hearing.

90.82.3 *Drainage and maintenance.* Off-street parking facilities shall be drained to prevent damage to abutting property and/or public streets and alleys and surfaced with a minimum of at least one (1) inch of asphalt concrete or a wearing surface on a six (6) inch compacted lime rock base. Off-street parking areas shall be maintained in a clean, orderly, and dust free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

90.82.4 *Separation from walkways and streets.*
1. For properties designated H30A and H30B and for properties designated H40 east of Harding Avenue, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a minimum five (5) foot planted strip.
2. For properties designated H40, H30C, and H120, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device.



- 90.82.5 *Entrances and exits.* Not more than one entrance or exit, not exceeding twelve (12) feet in width, shall be permitted for every fifty (50) feet of width of the parking lot.
- 90.82.6 *Marking.* Parking spaces in lots of more than ten spaces shall be marked by a painted line or other: to indicate individual spaces; a curb or stop shall be provided at each parking space. Signs or markers shall be used as necessary to ensure efficient operation of the lot.
- 90.82.7 *Lighting.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. As provided in Section 90-61, the lighting shall be installed, maintained and regulated so as to reflect the light away from adjoining property and avoid annoyance to such premises.
- 90.82.8 *Screening.* Off-street parking lots with capacity for six (6) or more vehicles shall provide along the lot lines, except for ingress and egress, a visual screen with a height of not less than two (2) feet or more than three (3) feet. Such screen shall consist of a compact evergreen hedge.
- 90.82.9 *Extensions in certain districts.* Underground facilities in all districts except H30A and H30B district used primarily for off-street parking spaces may extend into the side and rear yards to the property lines, provided the top surface of such extensions is not more than five (5) feet above grade. However, where such extensions are used for driveways leading to building entrances, the top surface of such extensions shall not be more than eight (8) feet above grade. In all cases the front yard setback shall be landscaped in accordance with the landscape requirements of this Code.

Division II

Off-Street Loading

Sec. 90.83

Off-street loading requirements

Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by twenty-five (25) percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3 and subsequent Sections of this Article.

Column 1 Use or Use Category	Column 2 Floor area as defined in 'Definitions', in Square Feet	Column 3 Loading Spaces Required in all Districts
Business, Commercial	10,000 - 60,000	1
Office Building	Greater than 60,000	2
Multi-family Dwelling Building	20,000 - 100,000	1
Hotel or Motel	Greater than 100,000	2

Sec. 90.84

Interpretation of the chart

The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in connection with other Articles of this chapter.

Sec. 90.85

Design standards

90.85.1

Minimum size. For the purpose of these regulations, a loading space is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum width of twelve (12) feet, a minimum



depth of thirty (30) feet, and a vertical clearance of at least fourteen and a half (14 1/2) feet.

90.85.2 *Drainage and maintenance.* Off-street loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with at least one (1) inch of asphalt concrete as a wearing surface on a six (6) inch compacted lime rock base.

Article VIII

Landscape Requirements

Sec 90.86

General

90.86.1

Purpose and intent.

The general purposes of this Section are as follows:

1. To encourage the establishment of a functional landscape and improve the aesthetic quality, thereby promoting the health and general welfare of its citizenry in the Town of Surfside;
2. To create and enhance the aesthetic subtropical character and identity distinctiveness of the Town of Surfside;
3. To design landscaping to enhance architectural features, relate structure design to the site, visually screen sites and unsightly views, reduce noise impacts from major roadways and incompatible uses, strengthen important vistas and reinforce neighboring site design and architecture,
4. To prevent the expansion of the listed pest plant species by prohibiting the use of noxious exotic plants which invade native plant communities;
5. To promote the use of more wind tolerant trees and proper horticultural planting methods in order to maintain a more sustainable landscape;
6. To promote Xeriscape principles through the use of drought-tolerant landscape species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and non-potable water supplies and restrictions on the amount of lawn areas;
7. To utilize landscape material, specifically street trees, to visually define the hierarchy of roadways, and to provide shade and a visual edge along roadways;
8. To prevent the destruction of the Town's existing tree canopy and promote its expansion to be valued and preserved for present and future generations;
9. To provide for the preservation of existing natural plant communities and re-establish native habitat where appropriate, and encourage the appropriate use of native plant and salt tolerant plant material in the landscape;
10. To promote the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and the channeling of breezes, thereby helping to offset global warming and local heat island effects through the added absorption of carbon dioxide and reduction of heat islands;
11. To contribute to the processes of air movement, air purification, oxygen generation, ground water recharge, and stormwater runoff retention, while aiding in the abatement of noise, glare, heat, air pollution and dust generated by major roadways and intense use areas;
12. To improve the aesthetic appearance of the Town through the use of plant material, thereby protecting and increasing property values within the community;



13. To promote the concept of planting the right tree or plant in the right place to avoid problems such as clogged sewers, cracked sidewalk and power services interruptions;
14. To provide the physical benefits of using plant material as a function and integral part of the Town of Surfside's development;
15. To provide minimum standards for landscaping new developments or for redevelopment;
16. To promote water conservation and vegetation protection objectives by providing for:
 - a. The preservation of existing plant communities pursuant to the requirements of the Miami-Dade's Tree Preservation and Protection Ordinance;
 - b. The reestablishment of native plant communities;
 - c. The use of site-specific plant materials; and
 - d. The implementation of Xeriscape principles as identified in *South Florida Water Management District's Xeriscape Plant Guide II*, as amended, and as provided by law.

90.86.2

Definitions.

Accessway: a private vehicular roadway intersecting a public right-of-way.

Applicant: the owner or the authorized agent of the subject property.

Berm: a linear earthen mound measured from the crown of the road or abutting finish floor elevation and has a maximum slope of three (3) to one (1). The berm shall consist of clean fill composed of planting soil.

Buffer, perimeter landscape: an area of flat a grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

Canopy: the upper portion of a tree consisting of limbs, branches and leaves.

Clear Trunk: the distance between the top of the root ball along the vertical trunk or trunks of a tree to the point at which lateral branching or fronds begin.

Clear Wood ("Gray Wood"): the portion of the palm trunk which is mature hardwood measured from the top of the root ball to the base of green terminal growth or fronds.

CPTED: the acronym Crime Prevention through Environmental Design; design approach to reduce crime and fear of crime by creating a safe climate within a building environment.

Diameter Breast Height (DBH): the diameter of the tree trunk(s) measured at four and one half (4 1/2) feet above grade.

Disturbed land/ground: any land where the original natural vegetation has been removed, displaced, overtaken or raked.

Functional Landscaping: the combination of living and nonliving materials that, when installed or planted, creates an ongoing system providing aesthetic and environmental enhancement to a particular site and surrounding area.

Groundcover: a dense, low-growing plant, other than turf, that, by the nature of its growth characteristics completely covers the ground and does not usually exceed two (2) feet in height.



Hedge: a dense row of evenly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Irrigation: the method of supplying plant materials with water other than by natural rainfall.

Landscape/Landscaping:

1. When used as a noun, this term shall mean living plant materials such as grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.
2. When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Mulch: organic, arsenic free, material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and enrich the soil.

Multi-trunk Trees: a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.

Native habitat: an area enhanced or landscaped with an appropriate mix of native tree, shrub and groundcover species that resembles a native plant community in structure and composition or is naturally occurring.

Native Plant Community: a natural association of plants dominated by one (1) or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Surfside.

Native Plant Species: native plant species shall be those plant species indigenous to the ecological communities of South Florida, as indicated on lists provided by Town of Surfside, or that can be scientifically documented to be native to South Florida.

Open Space: all pervious landscape planting areas of the site.

Overall Height: the height measured from the ground to the bend of the top most branch of the tree. Overall height on palms: the measurement from the ground to the bend of the topmost frond.

Pervious areas: mean any portion of the ground unobstructed by a non landscape planting surface which prevents or slows down the natural seepage of water into the ground.

Planting Soil/Topsoil: a medium composed of fifty (50) percent sand and fifty (50) percent muck. Palm planting soils shall compose of no more than eighty (80) percent sand and remainder soil consisting of muck. It must be clear and free of construction debris, weeds and rocks, with a PH between six and one half (6 1/2) and seven (7).

Redevelopment: any proposed expansion, addition, or façade change to an existing building, structure, or parking facility. Redevelopment may also mean any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development. Exception to this definition, single family dwelling redevelopment would be



considered when seventy-five (75) percent or greater of the existing structure is knocked down.

Shrub: a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Site-Specific Plant Materials: the use of plant species selected to minimize supplemental irrigation, fertilization and pest control.

Town: the department or division of the Town of Surfside government that the Town Manager has designated to enforce the Landscaping requirements of this Section.

Tree: a self-supporting, woody perennial plant, usually with one vertical stem or main trunk, which naturally develops a distinct, elevated crown and provides, at maturity, natural characteristics of the species.

1. Tree, Dicotyledonous (Dicot) is a tree having a woody stem and branches and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.
2. Tree, Monocotyledonous (Monocot) is a palm or a tree having fronds with parallel venation and no true woody bark with a minimum overall natural height of ten (10) feet at maturity.

Tree Abuse:

1. Hat racking, flat-cutting the top of a tree, severing leader or leaders of a tree.
2. Pruning that reduces the total height or spread of a tree canopy by more than thirty (30) percent in one year.
3. Cutting upon a tree which destroys its natural habit of growth.
4. Pruning that leaves stubs or results in a flush cut or splitting of limb ends.
5. Peeling or stripping of bark or the removal of bark to the extent that if a line is drawn at any height around the circumference of the tree, over one third (1/3) of the length of the line falls on portions of the tree where the bark remains.
6. The use of climbing spikes, nails or hooks with the exception for the purposed of total tree removal.
7. Pruning that does not conform to the standards set by the American National Standards Institute (ASI A300), as amended, with the exception of palm pruning which shall allow no pruning of fronds above the horizontal plane.
8. Using nails or other piercing devices for the purpose of attaching signage or any objects to a tree.
9. Girdling of trees by guying, staking, support, string trimmers, or non-removal of planting materials from the root balls.
10. Lawn mower string trimmer or deck damage inflicted on any portion of a tree.
11. Vehicular damage inflicted causing bark removal, tree leaning and/or destruction. Also, any damage and/or compaction of the roots by vehicular usage.
12. Structures being placed or constructed within a tree.



13. Utilizing any portion of a tree as a fence or similar structural support.
14. The use of oils, chemicals or other materials poured on the roots and/or trees. Also, the painting of trees with paint and/or other similar material.

Turf: the upper layer of soil matted with roots of grass and covered by viable grass blades.

Vegetation: angiosperms, gymnosperms, ferns and mosses.

Vehicular Encroachment: any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular Use Area (VUA): an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Vine: any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

Xeriscape: a landscaping method that maximizes the conservation of water by use of site-appropriate plants and an efficient watering system.

Sec 90.87

Landscape permit plans

90.87.1

All buildings, structures, new developments, redevelopment and changes of use requiring a permit shall require submittal of a landscape and irrigation plan. Landscape and irrigation plans shall be prepared by a State of Florida registered Landscape architect. Landscape plans for H30A and H30B may be prepared by the owner of the property or a representative thereof, provided it meets the requirements per this Code. The use of a Landscape architect is encouraged.

90.87.2

All landscape plans shall meet the following requirements:

1. Shall be of the same scale as the site plan, but no smaller than one (1) inch equals fifty (50) feet. Recommended scale to be one (1) inch equals twenty (20) feet.
2. Location, condition, number, names, sizes, DBH and disposition of all existing trees and vegetation, to be preserved, relocated or removed. Also, provide all existing native plant communities to be preserved, relocated or removed.
3. Location and outline of existing buildings and site improvements to remain.
4. Location, condition, names, sizes, DBH, and disposition of existing trees, hedge, and site improvements along any abutting properties within twenty-five (25) feet of the property lines.
5. Location of all proposed or existing buildings and site improvements including but not limited to; parking spaces, access isles, drive ways, sidewalks and other vehicular use areas to remain or be removed.
6. A proposed plant list by symbol, quantity, required specifications, native or non-native, drought tolerance, salt tolerance, and botanical and common names. Also, the plant list must be indicated on all planting plan sheets.
7. A landscape calculation table indicating the minimum required and provided comparisons of the proposed plant material. Also, providing the gross and net acreages, buffer lengths, percentages of landscaping in the VUA, pervious area, street lengths, percentages of sod, native/drought tolerant percentages and landscape material size requirements.



8. Location and labeling of existing and proposed site lighting. Additionally, provide a minimum of fifteen (15) feet separation from the required or existing shade trees and seven and one half (7 1/2) feet from palms and small trees.
9. Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required seven and one half (7 1/2) feet clearance from all landscape material to the front and sides with four (4) feet clearance from the rear.
10. Location of existing and proposed easements, right of ways, drainage structures, overhead utility wires, underground utilities, above ground electrical elements, and transformers.
11. Location and details including type, height, color, and additional embellishments of walls, fences, gates, and signs.
12. All planting details and staking details, including but not limited to planting/staking specifications, general notes and tree protection barricade detail.
13. Existing or proposed water bodies and retention areas indicating the required four (4) to one (1) slopes.
14. Such other information that may be required to give a complete understanding of the proposed plan.

90.87.3

The irrigation plan shall meet the following requirements:

1. The same scale of the site plan, but no smaller than one (1) inch equals fifty (50) feet.
2. Location of existing trees, vegetation and native plant communities to remain, if applicable.
3. Location of existing buildings, paving, and site improvements to remain.
4. Location of proposed buildings, paving, site improvements, and water bodies.
5. Main location with sleeves, size and specifications.
6. Valve location, size and specifications.
7. Pump location, size and specifications or water source.
8. Backflow prevention device type and specifications.
9. Controller locations and specifications.
10. Zone layout plan (minimum scale 1" = 20"):
11. Provide one hundred (100) percent coverage and one hundred (100) percent overlap.
12. Indicating head-type, specifications and spacing
13. Indicate location and details of rain sensor, second water meter, and rainwater citrons; and
14. Indicating methods used to achieve compliance with Xeriscape principles as required by § 166.048 F.S.

Sec. 90.88

Installation of landscaping and irrigation

All landscaping and irrigation shall be installed according to accepted horticultural planting procedures with the quality of plant materials as hereinafter described, including:

1. Planting soil/topsoil shall be of the minimum quality as specified in the plant materials section of this Code. All trees, palms, shrubs, and ground



covers shall be planted with a minimum of twelve (12) inches or two (2) times the root ball of planting soil around root ball. A minimum of three (3) inches of shredded, approved arsenic free, organic mulch or groundcover shall be installed around each tree planting for a minimum of eighteen (18) inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover planting. The use of mulch obtained from Melaleuca, Eucalyptus, or other invasive plant species is encouraged in order to reduce their impact on the environment and to preserve the remaining native plant communities.

2. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited. All plants shall be installed so that the top of the root ball remains even with the soil grade or ten (10) percent or the root flare is visible above the surrounding grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed before planting.
3. All parking islands, medians, and other landscape areas shall be installed with continuous Type "D" curbing to prevent damage to the plant material and the displacement of topsoil and mulch. Also, all landscape islands, divider medians, and planters shall be excavated of limerock and/or compacted soil to a depth of thirty (30) inches and backfilled with specified planting mix to the top of curb. Additionally, all areas along buildings shall be excavated to a depth of twelve (12) inches and backfilled with specified planting mix.
4. Garage and rooftop landscaping. Not less than fifty (50) percent of rooftop areas of buildings that are ancillary to and are visible from upper level dwelling or hotel units on the same site shall be screened or buffered through the use of landscaped horizontal trellis structure, shade or palm trees in irrigated planters, canopies, screening walls enclosing mechanical equipment and/or through the decorative surface treatments of float roof areas with patterns of gravel or other surfacing materials in varying shades and hues to create a graphic composition. Not less than fifty (50) percent of open rooftop parking on garage structures adjacent to upper level residential and hotel units shall be screened through the used of trellis structures, canopies or shade or palm trees in irrigated planters. All parking structures require irrigated planters with plant material that screens and buffer the parking structures on all sides.
5. All proposed multi-trunk trees shall have a minimum of three trunks with no more than five trunks of equal diameters originating from the base of the tree and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.
6. All proposed trees and palms shall not be planted under roof over hangs or balconies.
7. All proposed trees and palms within or overhanging pedestrian areas shall have a clear trunk high enough to allow unobstructed pedestrian movement under or around.
8. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six (6) percent Nitrogen (N) – six (6) percent Phosphorus (P) – six (6) percent Potassium (K) of which fifty (50) percent of the nitrogen must be derived from an organic source.
9. All proposed tot lots or pools shall be required to have a minimum shade requirement to allow persons to seek refuge from the sun.



10. Salt tolerant plant species is encouraged in all areas of the Town.
11. The concepts of Green Building Design and LEED are encouraged to help reduce water consumption, decrease fossil fuel burning, channel breezes, assist in cooling, create more pervious areas for drainage and promote more environmentally conscious.
12. All plant root ball sizes shall conform or exceeded the minimum standards in the current edition of Florida Grades and Standards.
13. All landscape areas with the exception of H30A, H30B and H30C (for single family and two family only) shall be provided with an automatically operating, underground, and rust free irrigation system designed to have one hundred (100) percent coverage with one hundred (100) percent overlap. Drip, trickle or other low-volume irrigations systems shall be permitted if designated on approved landscape plans and approved by the Town. Irrigation systems shall be designed to minimize application of water to impervious areas. All PVC risers shall be painted flat black
 - a. Pursuant to § 373.62, F.S., any irrigation system installed after May 1, 1991, shall install a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.
 - b. Use of non-potable water, including, but not limited to, water from a canal, lake or a treated water source, in the irrigation of landscaped areas is required when determined to be available and safe.
 - c. Automatic controlling devices shall be used on all irrigation systems.
 - i. Preserved native habitats or native plant communities shall not be irrigated unless required by the Town.
 - ii. Recommend the use of a second water meter for irrigation to help reduce the cost of the watering the landscape. NOTE: The sewer usage cost is eliminated with this added meter.
 - iii. Encourage the use of rainwater cisterns to help save water, one of our greatest natural resources. Also, rainwater cisterns will help on reducing watering costs and the impacts of water restrictions on the landscaping. Cisterns shall be provided below grade and are permitted in all zoning districts.
14. Inspections of sites for landscape and irrigation installation:
 - a. A pre-inspection of the site with the landscape and irrigation contractor will be required to discuss all the Town requirements, answer any questions and determine site conditions for appropriate use and selection of landscape material prior to installation.
 - b. A final landscape and irrigation inspection will be required upon completion.

Sec. 90.89

Maintenance of landscaped areas

1. An owner of land subject to this Code shall be responsible for the maintenance of said land and landscaping so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. NOTE: All fertilizer shall be safe and environmentally friendly. Also, the applications shall conform to the manufacturer's specifications.
2. Three inches of clean, weed-free, arsenic free, organic mulch shall be maintained over all areas originally mulched at all times. Turfgrass shall be



kept trimmed and/or mowed regularly to a height not exceeding eight (8) inches above the ground. NOTE: If weeds, noxious grasses or underbrush are in excess of the eight (8) inches; it too will need to be cut and the weeds, noxious grasses and underbrush removed and re-sodded if necessary.

3. Irrigation systems shall be maintained to eliminate water loss due to damaged, missing or improperly operating sprinkler heads, emitters, pipes and all other portions of the irrigation system.
4. Preserved and created native plant communities shall be maintained in a natural state without the use of mechanical equipment.
5. An owner is responsible to ensure that landscaping that has been required to be planted pursuant to this Code, or installed in compliance with the landscape requirements previously in effect, be maintained in Florida Grade One condition, including but not limited to single-family residences, multifamily, or business sites. If landscaping is found to be in a state of decline, dead, damaged, or missing, it must be replaced with equivalent landscape material. If total replacement is required, species conforming to this Code shall be used. If any preserved vegetation dies which is being used to satisfy current landscape code requirements, such vegetation shall be replaced with the same landscape material selected from nursery-grown native stock only.
6. All trees shall be trimmed in accordance to Miami-Dade County tree preservation code. Any type of tree abuse/hatracking is prohibited within the Town.
7. Any trees and/or palms that are diseased (including dead palms with lethal yellowing) or trees and/or palms causing a possible safety hazard as determined by the Town are considered to be a public nuisance. The Town shall enforce the provisions of this Section. Any property owner of any lot or parcel of land in the Town shall promptly remove any such tree and/or palm after being notified by the Town. The Town is authorized and empowered to enter on any lot or parcel of land in the Town at any reasonable hour for the purpose of inspecting such trees and/or palms.
8. Shrubs and hedges shall be maintained that such plant materials do not obstruct clear sight triangles and promote vehicular and pedestrian visibility. Also, hedges planted along property lines shall be maintained and trimmed to prevent branches from extending over and/or touching structures on adjacent properties.
9. Any plastic or similar artificial landscape materials shall be prohibited with the exception of seasonal holiday decorative displays of less than sixty (60) days duration.
10. All property owners shall keep such property and the adjoining unpaved portions of the public right-of-ways, swales and bulkheads clean and free from any accumulation of garbage, trash, litter or debris.
11. All property owners within the Town shall not permit unattended vegetation upon the property, adjoining portions of the rights-of-ways, swales and canal banks.
12. All non-compliance with section of the ordinance shall be enforced in accordance with the Town's Code Enforcement Rules and Regulations.

Sec. 90.90

Plant material

90.90.1

Quality: Plant materials used in accordance with this Code shall conform to the standards for Florida Grade One, or better, (NOTE: Some proposed



landscaping can be required to be Florida Fancy) as provided for in the most current edition of *Grades and Standards for Nursery Plants*, 2nd edition, Feb. 1998, State of Florida Department of Agriculture and Consumer Services, as amended. Additional information not addressed in the Florida *Grades and Standards for Nursery Plants* shall refer to ANZI Standards Z60.1. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine "Floritam", "Palmetto," or Bermuda, laid on a smooth planting base with tight joints, at one hundred (100) percent coverage at time of planting and cut to fit all landscape planters and curb areas.

90.90.2 *Native Vegetation:* Fifty (50) percent of all vegetation, excluding all turf grass, required to be planted by this Code shall be indigenous to South Florida.

90.90.3 *Preserved/Created Native Plant Communities:* Native Plant communities shall be preserved or created. Sites which consist of five acres or more, where there is no viable native plant community, the applicant shall show on the landscape plan an area or areas equivalent to two and a half (2 1/2) percent of the site to be planted and preserved as an native plant community. Sites which consist of two (2) to five (5) acres may incorporate a native plant community into the landscape buffer or interior landscaping requirements.

90.90.4 *Trees:*

1. Shade/canopy tree: Shade/canopy tree shall be a minimum overall height of fourteen (14) feet, six (6) feet spread, two and one half (2 1/2) inches DBH and five (5) feet clear trunk. This category shall constitute twenty (20) percent of the minimum required trees.
2. Intermediate trees: Intermediate trees shall be a minimum overall height of twelve (12) feet, five (5) feet spread, two (2) inches DBH and four and one half (4 1/2) feet clear trunk. This category shall constitute twenty (20) percent maximum of the required trees.
3. Small trees: Small trees shall be a minimum overall height of ten (10) feet, four and one half (4 1/2) feet spread, one and one half (1 1/2) inches DBH and four (4) feet clear trunk. This category shall constitute no more than twenty (20) percent of the required trees.
4. Palms: Palms shall have a minimum of six (6) feet grey wood and shall constitute no more than forty (40) percent of the required trees. All palms with the exception of *Roystonea elata/regia*, *Phoenix canariensis*, *Phoenix dactylifera*, *Phoenix sylvestris*, *Phoenix reclinata*, *Wodyetia bifurcata*, and *Bismarckia nobilis*, shall be counted at three (3) for one (1) and planted with staggered heights NOTE: All proposed coconut palms shall be certified to be resistant to Lethal yellowing.
5. All landscaping including shrubs and groundcover shall be guaranteed for one year after final landscape inspection.
6. Street tree requirements:
 - a. Street trees shall be required at one (1) shade tree/palm tree per twenty (20) linear feet of street frontage thereof along all public or private street right-of-ways in all zoning districts.
 - b. ii. Street trees shall be of a species typically grown in South Florida that normally matures to a height of at least twenty (20) feet. Street trees shall have a clear trunk of over seven (7) feet, an overall height of fourteen (14-16) feet and a minimum of two and one half (2 1/2) inches DBH at time of planting. Palm trees utilized as street trees shall have eight (8) foot clear wood.



- c. The average spacing requirement for H40 Districts shall be based on the total lineal footage of roadway for the entire project and not based on individual lot widths.
 - d. Street tree species shall be approved by the Town during plan review. Street trees shall visually define the hierarchy of roadways, provide shade along roadways, and provide a visual edge along roadways. Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.
 - e. Street trees shall be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Town.
 - f. Street trees planted along roadways and/or sidewalks shall be placed a minimum of four (4) feet off the interior pavement edge.
 - g. Street trees planted within sidewalk or curbed planting area along parallel parking shall have a minimum planting area of six (6) feet by six (6) feet. If the street tree is planted within the sidewalk, root barrier(s) of minimum depth of twelve (12) inches shall be installed per manufacturer's recommendations. These trees shall require adjustable tree grates or groundcover to full coverage inside planting area.
 - h. When trees are planted within the right-of-way, the owners of land adjacent to the areas where street trees are planted must maintain those areas including the trees, plants, irrigation and sod. Where the State, County or Town determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.
7. The following plant species shall not be planted as required or optional landscaping and, in addition, these species shall be removed from the construction sites with the exception of existing ficus hedges that have been damaged during a strong storm or hurricane. If fifty (50) percent or more viable ficus hedge material is left than the additional missing fifty (50) percent or less can be replaced:

Botanical Name	Common Name
<i>Acacia auriculiformis</i>	Earleaf Acacia
<i>Adenanthera pavonina</i>	Red sandalwood
<i>Aeginetia</i> spp. (all)	Aeginetia
<i>Ageratina adenophora</i>	Crofton weed
<i>Albizia julibrissin</i>	Mimosa
<i>Albizia lebbbeck</i>	Woman's Tongue
<i>Alectra</i> spp. (all)	Yerba de hierro
<i>Alternanthera philoxeroides</i>	Alligator weed
<i>Alternanthera sessilis</i>	Sessile joyweed
<i>Araucaria heterophylla</i>	Norfolk Island Pine
<i>Ardisia crenata</i>	Coral ardisia
<i>Ardisia solanacea</i>	Shoebuttan Ardisia
<i>Asphodelus fistulosus</i>	Onionweed
<i>Avena sterilis</i>	Animated oat
<i>Azolla pinnata</i>	Asian mosquito fern



Botanical Name	Common Name
<i>Bischofia javanica</i>	Bischofia, Toog
<i>Borreria alata</i>	Broadleaf buttonweed
<i>Brassaia actinophylla</i>	Schefflera
<i>Broussonetia papyrifera</i>	Paper mulberry
<i>Carthamus oxycantha</i>	Wild safflower
<i>Casuarina spp.</i>	Australian Pine
<i>Cestrum diurnum</i>	Day blooming jasmine
<i>Chrysopogon aciculatus</i>	Pilipiliula
<i>Cinnamomum camphora</i>	Camphor tree
<i>Colocasia esculenta</i>	Taro
<i>Colubrina asiatica</i>	Latherleaf
<i>Commelina benghalensis</i>	Benghal dayflower
<i>Crassula helmsii</i>	Swamp stonecrop
<i>Crupina vulgaris</i>	Common crupina
<i>Cupianopsis spp.</i>	Carrotwood
<i>Cuscuta japonica</i>	Japanese dodder
<i>Cuscuta megalocarpa</i>	Bigfruit dodder
<i>Cuscuta potosina</i>	Globe dodder
<i>Cuscuta spp. (except natives)</i>	Exotic dodder vines
<i>Dalbergia sissoo</i>	Indian Rosewood
<i>Digitaria abyssinica</i>	Couch grass
<i>Digitaria velutina</i>	Velvet finger grass
<i>Dioscorea alata</i>	White yam
<i>Dioscorea bulbifera</i>	Air potato
<i>Drymaria arenarioides</i>	Alfombrilla
<i>Eichhornia azurea</i>	Anchored waterhyacinth
<i>Eichhornia spp. (all)</i>	Water hyacinths
<i>Emex australis</i>	Three-cornered jack
<i>Emex spinosa</i>	Devil's thorn
<i>Enterolobium contortisliquum</i>	Ear-pod tree
<i>Eucalyptus spp. (1 or more)</i>	Eucalyptus trees
<i>Euphorbia prunifolia</i>	Painted euphorbia
<i>Fatoua spp. all</i>	Fescue
<i>Ficus altissima</i>	False banyan
<i>Ficus benghalensis</i>	Banyan tree
<i>Ficus benjamina</i>	Weeping fig
<i>Ficus carica</i>	Edible fig
<i>Ficus decora</i>	Rubber tree
<i>Ficus nitida/Ficus microcarpa</i>	Cuban laurel
<i>Ficus religiosa</i>	Bo tree
<i>Ficus spp. (all non-natives)</i>	Ficus
<i>Flacourtia indica</i>	Governor's plum
<i>Flueggea virosa</i>	Flueggea
<i>Foeniculum vulgare</i>	Fennel
<i>Fragaria chiloensis var. Ananassa</i>	Strawberry
<i>Fraxinus uhdei</i>	Shamel ash
<i>Galega officinalis</i>	Goatsrue
<i>Grevillea robusta</i>	Silk Oak
<i>Heracleum mantegazzianum</i>	Giant hogweed



Botanical Name	Common Name
<i>Hibiscus tiliaceus</i>	Mahoe
<i>Hydrilla verticillata</i>	hydrilla
<i>Hygrophila polysperma</i>	Miramar weed
<i>Imperata brasiliensis</i>	Brazilian satintail
<i>Imperata spp.</i>	Cogon grass
<i>Ipomoea aquatica</i>	Chinese waterspinach
<i>Ipomoea fistulosa</i>	Shrub morning glory
<i>Ipomoea triloba</i>	Little bell morning glory
<i>Jacaranda acutifolia</i>	Jacaranda
<i>Jasminum dichotomum</i>	Gold Coast jasmine
<i>Jasminum fluminense</i>	Brazilian jasmine
<i>Lagarosiphon major</i>	Oxygen weed
<i>Lagarosiphonspp. (all)</i>	African elodeas
<i>Lantana camara</i>	Shrub verbena
<i>Leptochloa chinensis</i>	Asian sprangletop
<i>Leucaena leucocephala</i>	Lead Tree, Jumbie Bean
<i>Ligustrum sinense</i>	Chinese privet
<i>Limnocharis flava</i>	Sawa flowering-rush
<i>Limnophila sessiliflora</i>	Ambulia
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lycium ferocissimum</i>	African boxthorn
<i>Lygodium japonicum</i>	Japanese climbing fern
<i>Lygodium microphyllum</i>	Old World climbing fern
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Manilkara zapota</i>	Sapodilla
<i>Melaleuca quinquenervia</i>	Melaleuca or Paperbark
<i>Melastoma malabathricum</i>	Indian rhododendron
<i>Melia azederach</i>	Chinaberry tree
<i>Merremia tuberosa</i>	Woodrose
<i>Mikania cordata</i>	Mile-a-minute vine
<i>Mikania micrantha</i>	Mile-a-minute vine
<i>Mimosa invisa</i>	Giant sensitive plant
<i>Mimosa pigra</i>	Cat-claw mimosa
<i>Monochoria hastata</i>	Monochoria
<i>Monochoria vaginalis</i>	Asian pickerel weed
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Nassella trichotoma</i>	Serrated tussock
<i>Nechamandra alternifolia</i>	Indian elodea
<i>Neyraudia reynaudiana</i>	Burma reed
<i>Orobanchespp. except (O.uniflora)</i>	Broomrape
<i>Oryza longistaminata</i>	Red rice
<i>Oryza punctata</i>	Red rice
<i>Oryza rufipogon</i>	Wild red rice
<i>Ottelia alismoides</i>	Duck-lettuce
<i>Paederia cruddasiana</i>	Sewer vine
<i>Paederia foetida</i>	Skunk vine
<i>Paspalum scrobiculatum</i>	Kodo-millet
<i>Pennisetum clandestinum</i>	Kikuyu grass or Napier grass
<i>Pennisetum macrourum</i>	African feather grass



Botanical Name	Common Name
<i>Pennisetum pedicellatum</i>	Kyasuma grass
<i>Pennisetum polystachyon</i>	Mission grass
<i>Pistia stratiotes</i>	Water-lettuce
<i>Pongamia pinnata</i>	Pongam
<i>Pontederia rotundifolia</i>	Tropical pickerelweed
<i>Prosopis spp. (Except natives)</i>	Mesquite
<i>Pueraria Montana</i>	Kudzu
<i>Rhodomyrtus tomentosa</i>	Downy Rose Myrtle
<i>Ricinus communis</i>	Castor bean
<i>Rottboellia cochinchinensis</i>	Itch grass
<i>Rubus fruticosus</i>	European bramble blackberry
<i>Rubus moluccanus</i>	Asian wild raspberry
<i>Saccharum spontaneum</i>	Wild sugarcane
<i>Sagittaria sagittifolia</i>	Eurasian arrowhead
<i>Salsola vermiculata</i>	Wormleaf salsola
<i>Salvinia spp.</i>	Salvinia
<i>Sapium sebiferum</i>	Chinese tallow tree
<i>Scaevola taccada</i>	Beach naupaka
<i>Schefflera actinophylla</i>	Queen's Island umbrella
<i>Schinus terebinthifolius</i>	Brazilian Pepper, Florida Holly
<i>Setaria pallidifusca</i>	Cattail grass
<i>Solanum tampicense</i>	Wetland nightshade
<i>Solanum torvum</i>	Turkeyberry
<i>Solanum viarum</i>	Tropical soda apple
<i>Sparganium erectum</i>	Exotic bur-reed
<i>Stratiotes aloides</i>	Water-aloe
<i>Striga asiatica</i>	Asiatic witchweed
<i>Striga densiflora</i>	Denseflower witchweed
<i>Striga gesnerioides</i>	Cowpea witchweed
<i>Striga hermonthica</i>	Purple witchweed
<i>Syzygium cumini</i>	Java plum or Jambolan
<i>Syzygium jambos</i>	Rose-apple
<i>Terminalia cattapa</i>	Tropical Almond
<i>Thespesia populnea</i>	Seaside Mahoe
<i>Trapaspp. (all)</i>	Water chestnuts
<i>Tribulua cistoides</i>	Puncture vine
<i>Tridax procumbens</i>	Coat buttons
<i>Urochloa panicoides</i>	Liverseed grass
<i>Vossia cuspidate</i>	Hippo grass
<i>Wedelia trilobata</i>	Wedelia

- The use of wind tolerant trees and palms are encouraged due to the high risk of hurricanes in South Florida. Every effort should be utilized to reduce the risk of damage and liability by utilizing more wind tolerant landscaping. Also, the use of landscaping that is very poisonous, has a major pest or insect problem, thorny spines, drops messy fruit or has an aggressive root system will be reviewed case by case.
- The use of plant materials that reinforce the ambience of the Town's distinctive, lush, subtropical character is encouraged.



10. The following plant list species shall not be considered as a required tree or palm. However these species may be utilized as an accent:

Botanical Name	Common Name
<i>Arborvitae spp.</i>	Thuja
<i>Dypsis lutescens</i>	Areca Palm
<i>Veitchia merrillii</i>	Christmas Palm
<i>Cupressus sempervirens</i>	Italian Cypress
<i>Caryota mitis</i>	Fishtail Palm
<i>Citrus spp.</i>	Citrus
<i>Nerium oleander</i>	Oleander
<i>Ravenala madagascariensis</i>	Travelers Tree
<i>Phoenix roebelenii</i>	Pygmy Date Palm
<i>Sterlizia nicolai</i>	White Bird of Paradise

- All trees and palms must be a minimum of four (4) feet from all underground utility lines. Also, refer to the site lighting and fire hydrant requirements for tree and palms.
- All invasive exotic pest plants shall be removed from the site prior to final inspection.
- All landscape substitutions including shrubs and groundcover shall require Town approval prior to installation.
- No more than thirty (30) percent (of required trees shall be of the same species. The tree diversity mix shall be as follows:

Number of Trees	Number of Species Required
1-4	4
5-25	5
26-50	6
51-75	7
75-100	8
100+	9

90.90.5

Shrubs and Hedges.

- Shrubs shall be a minimum of two (2) feet high, full to base, two (2) feet spreads and planted two (2) feet on center when measured immediately after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized. When shrubs are used as a screen around vehicular open space areas, said shrubs shall be a minimum of two (2) feet in height above the vehicular open space pavement surface that directly abuts the shrubs at time of planting and branch touching branch.
- Required buffer hedges shall be planted two (2) feet high, full to the base, two (2) feet spreads and two (2) feet on center spacing (branch touching branch) and maintained so as to form a continuous, unbroken solid, visual screen, with a maximum height of three (3) feet, to be attained within one (1) year after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized.
- Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.



-
- 4. Ficus spp., when planted as a hedge, may be used to meet the requirements of dumpster enclosure, mechanical equipment and electrical transformer screening only.
- 90.90.6 *Vines.* Vines shall be full and a minimum of thirty (30) inches in supported height immediately after planting. The method of attachment shall be indicated on the landscape plans.
- 90.90.7 *Groundcover.* Groundcovers shall be full and planted with a minimum of seventy-five (75) percent coverage with one hundred (100) percent coverage occurring within three (3) months of installation. All ground cover shall be planted so not to touch the building walls or walkways at time of planting.
- 90.90.8 *Turf:*
- 1. All turf areas including but not limited to swales, lake maintenance easements, and retention areas shall be sodded using St. Augustine Floratam, Palmetto or Bermuda sod to the water line.
 - 2. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.
 - 3. Turf areas shall be consolidated and limited to those areas on the site that require pedestrian traffic, provide for recreation use or provide soil erosion control such as on slopes or in swales, or surface water management areas, and where turf is used as a design unifier, or other similar practice use. Turf areas shall be identified and labeled on the landscape plan.
 - 4. The following percentages shall apply to turf areas:
 - a. No more than eighty (80) percent of the landscape area for single-family and duplex dwellings may be in turf grass.
 - b. No more than sixty (60) percent of the landscape area for multifamily dwellings may be in turf grass.
 - c. No more than fifty (50) percent of the landscape area for other development uses may be in turf grass, notwithstanding the use of artificial turf for the purpose of municipal athletic fields.
- 90.90.9 *Planting soil and topsoil:* Topsoil and/or planting soil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall be composed of a minimum of fifty (50) percent muck and fifty (50) percent sand or eighty (80) percent sand and twenty (20) percent muck.
- 90.91 Vegetative Provisions**
- 90.91.1 *Xeriscape.*
- 1. A minimum of twenty (20) percent of the pervious area on single family and duplex dwellings must be in Xeriscape landscape.
 - 2. A minimum of forty (40) percent of the pervious area of multifamily dwellings must be in Xeriscape landscape.
 - 3. A minimum of fifty (50) percent of the pervious area of all other development uses must be in Xeriscape landscape.
- 90.91.2 *Use of site specific plant material:* Plants used in the landscape design shall be to the greatest extent, appropriate to the soil and other environmental conditions in which they are planted.
- 90.91.3 *Invasive exotic plant material:* As a condition of approval, the property owner shall remove all invasive exotic species from the property prior to final.



90.92 Landscape buffer areas between residential and non-residential properties and vehicular use areas

90.92.1 *Applicability:* All proposed development or re-development sites and vehicular use areas serving H30C, H40, H120, SD-B40 or municipal uses shall conform to the minimum landscaping requirements hereinafter provided. Interior parking landscape requirements under or within buildings and parking areas serving H30A and H30B districts are exempt. Additionally, SD-B40 is exempted when the adjacent or contiguous zoning district or use is the same with the exception of vehicular use areas for parking lots, loading, storage or screening of equipment requirements. Expansive concrete or paver areas shall require landscaping to soften and scale the buildings.

90.92.2 *Required Buffer Landscaping Adjacent to Streets and Abutting Properties:* On any proposed, re-developed site, or open lot providing a vehicular use area for H30C, H40, H120, SD-B40 adjacent or contiguous to H40, or municipal plots where such area is abutting street(s) and/or property lines, including dedicated alleys, landscaping shall be provided between such area and such perimeters as follows:

1. A flat ground level or bermed strip of land at least ten (10) feet in depth, located along all the property lines of abutting street(s) and abutting property line(s) shall be landscaped. Such landscaping shall include three (3) trees for each fifty (50) linear feet or fraction thereof. The first tree shall be set back from the intersection of the ingress/egress and the street. The setback area shall be limited to groundcover only. In addition, a hedge, berm, wall or other durable landscape barrier shall not create a sight hazard by being placed along the inside perimeter of such landscape strip and shall be maintained at a maximum height of three (3) feet, if contiguous to a pedestrian walkway, to meet Crime Prevention Through Environmental Design (CPTED) principles. If such durable barriers including walls or fences are of nonliving material, it shall be screened to the height of the durable barrier with a hedge along the street side of such barrier. If a fence or wall is utilized along an abutting property line it must be installed at the property line and screened to the height of the durable barrier with a hedge from the inside. The remainder of the required landscape area shall be landscaped with turf grass, groundcover or other landscape treatment, excluding paving, turf grass not to exceed the maximum amount allowable in the Xeriscape requirements. This buffer may not be counted toward meeting the interior landscape requirements.
2. All property other than the required landscaped strip lying between the streets and abutting property lines shall be landscaped with turf grass or other groundcover; if turf grass is used, it shall not exceed the Xeriscape requirements.
3. All Town approved necessary accessways from the public street through all such landscaping shall be permitted to service the site.
4. Parking Area Interior Landscaping. An area, or a combination of areas, equal to twenty (20) percent of the total vehicular use area exclusive of perimeter landscape buffers required under this subsection shall be devoted to interior landscaping. Any perimeter landscaping provided in excess of that required by this Section shall be counted as part of the interior landscaping requirements, as long as such landscaping is contiguous to the vehicular use area and fulfills the objective of this subsection.



5. All parking areas shall be so arranged so that if there are ten (10) or less contiguous parking stalls along the same parking aisle, the eleventh space shall be a landscaped peninsula a minimum of eleven (11) feet in width with a minimum of ten (10) feet wide landscape area. Also, all rows of parking shall be terminated with eleven (11) feet in width landscape islands with ten (10) feet wide landscape area. In addition, there shall be a minimum requirement of one (1) shade tree and twenty five (25) shrubs planted for every landscaped island. If landscaped divider medians are utilized, they must be a minimum of six (6) feet wide. The minimum dimensions of all proposed landscaped areas not mentioned in this chapter shall be six (6) feet wide. In addition, any Town approved grass parking areas will meet the same requirements as paved parking, and will not be calculated in the pervious space requirements.
6. Landscaped areas, walls, structures and walks shall require protection from vehicular encroachment through appropriate wheel stops or curbs located a minimum of two and a half (2 1/2) feet from any landscaped area. NOTE: The Town encourages the use of Type "D" curbing in parking area that abut landscape areas to provide more green area and lessen the chance of tripping hazards. This can not be utilized to count for buffer or divider median requirements, but can be utilized for pervious and landscaping in the VUA percentages.
7. Where any plot zoned or used for H120 is contiguous to the bulkhead line, a landscape area consisting of the bulkhead line, the erosion control line, and the property lines shall be provided or restored. The proposed landscape material for the required landscape area shall be one hundred (100) percent landscape material used on the barrier island dune system and shall be composed of native plants adapted to the soil and climatic conditions occurring on-site. Additionally, all plant species, amount of plant material, plant spacing and design shall be approved by the Town.

Sec. 90.93

Sight triangles and clearances

When the subject property abuts the intersection of one (1) or more streets or access ways, all landscaping within the triangular area located within twenty five (25) feet of the intersection of the front and side street property lines shall provide unobstructed cross-visibility at a level between thirty (30) inches and eight (8) feet, with the exception of tree trunks that do not create a traffic hazard. The property owner shall be responsible for maintaining all landscaping within the cross-visibility triangle. Landscaping, except required turf and groundcover, shall not be located closer than five (5) feet from the edge of any roadway and three (3) feet from the edge of any alley or pavement. All sight triangles shall be indicated on the landscape plans. NOTE: The Town Traffic Engineer shall have final approval of the clear sight triangles.

Sec. 90.94

Open Space

All open space on any site shall conform to the following requirements:

1. General Landscape Treatment:
 - a. Groundcover, shrubs, and other landscape materials (not including rocks, gravel, pavers, turf blocks, artificial turf, or other items) shall be installed to cover all open space areas not covered by paving or structures, using the required percentages specified in the Plant Material section. No substance including rocks, gravel, pavers, turf blocks, artificial turf or other materials which prevents water percolation shall be used in areas not approved for paving or structures. Proper horticultural planting practices shall comply with Xeriscape requirements.



- b. Along all buildings and structures, mature landscaping at installation shall be installed at one half (1/2) the height of the building or structure at one (1) tree per twenty-five (25) linear feet of each building's façade on all sides for scaling and softening. On buildings over seventy-five (75) feet in height the proposed trees/palms shall be at least thirty-five (35) to thirty-eight (38) feet tall at time of installation. NOTE: If the landscape buffer is contiguous to the building then the landscape buffer requirement will supersede, with the exception of one (1) tree per twenty-five (25) feet being one half (1/2) the height of the building at installation. Additionally, shrubs and groundcovers shall be added to enhance the building. A minimum six (6) feet wide landscape strip shall be provided not including overhands or awnings around all the buildings.
- 2. Shrub and Tree Requirements: Shrubs and trees shall be planted in the open spaces to meet the following requirements:

Percent of Site in Open Space (Amount of Pervious Landscape Planting Area)	Tree and Shrub Requirements
Less than 30%	1 tree and 10 shrubs per 1,000 sf
30 - 39%	1 tree and 8 shrubs per 1,500 sf
40 - 49%	1 tree and 6 shrubs per 2,000 sf
50% or more	1 tree and 6 shrubs per 2,500 sf

- 3. Screening of Equipment: Dumpsters, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened on at least three (3) sides by landscape material that equal to the height of the element at installation. Such screening shall not interfere with normal operation of equipment and shall be maintained at the height of the element or no more than one (1) foot above. In addition, bus shelters which are located within property lines shall be screened with plant material a minimum of two (2) feet in height on three (3) sides, and one (1) canopy tree, fourteen (14) feet in height or three (3) palms.
- 4. Signs: All freestanding sign installations require the installation and establishment of plant material to enhance the structure, at a minimum of one shrub for every two (2) feet of lineal width of the sign structure on each side; and groundcover, a minimum of five (5) feet around the perimeter of the sign base, designed in such a manner so as to not block the message on the sign. Trees or palms shall be required to enhance the sign with blocking it.
- 5. Minimum Landscape Credits and Adjustments: An owner shall receive credit against the minimum landscape code requirements of this Code for preservation, replacement or relocation of existing trees as determined by the Town.

Sec. 90.95

Landscape Buffers

- 1. Where any plot zoned or used for H30C, H40 or H120 is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least ten (10) feet in depth.
- 2. Where any plot zoned or used for H40 or H120 or H30C East of Harding Avenue is contiguous to any plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.



3. Where any plot zoned or used SD-B40 or municipal plot is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.
4. Where any plot zoned or used for SD-B40 or municipal plot is contiguous to a zoned or used plot of H30A or H30B, said plot shall be provide a landscape buffer of at least twenty (20) feet in depth.
5. Refer to Landscape requirements for landscape buffer and vehicular use areas adjacent to streets and abutting properties section for landscape requirements. The only additional requirement is a one (1) to two and one half (2 1/2) foot tall undulating and meandering landscape berm at three (3) to one (1) slope with layered landscaping along the perimeter adjacent or contiguous to any zoned or used plots of H30A or H30B.
6. In cases where nonresidential property abuts residential property, the Town can require such additional landscaping as is necessary to protect the aesthetics and minimize the impacts of the surrounding area.

Sec. 90.96

Single-family H30A and H30B District landscape requirements

All new H30A and H30B dwellings shall conform to the following minimum landscaping requirements:

1. Landscape Plans: H30A and H30B dwellings may submit landscape plans in the form of a H30A and H30B Landscape Data Table, on a form provided by the Town at time of permit application for review. This form shall include the required minimum landscape requirements, specifications and acceptable plant material choices to be chosen by the applicant. After the applicant has submitted a completed and signed form, a review of the form will be done to verify that all the requirements have been met. Landscape drawings are not required for H30A and H30B dwellings, however, plans are recommended.
2. General Landscape Treatment: Trees, turf grass, groundcover, shrubs and other decorative landscape material shall be used to cover all disturbed ground not covered by building and paving; with Xeriscape to be a minimum of twenty (20) percent of the open space of the site.
3. Shrub and Tree Requirements:
 - a. A minimum of five (5) trees of two (2) different species and twenty five (25) shrubs shall be planted per lot. On corner lots an additional one (1) tree and 10 shrubs shall be required. For all lots larger than eight thousand (8,000) square feet in area, additional shrubs and trees shall be provided at the rate of one (1) tree and ten (10) shrubs per two thousand (2,000) square feet of lot area; however, there shall be no more than fifteen (15) trees and one hundred (100) shrubs required per acre.
 - b. Where possible, a minimum of two (2) trees shall be required in the front of the lot. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence.
 - c. The required shade tree in this subsection shall be a minimum of thirty (30) percent at an overall height of twelve (12) feet to fourteen (14) feet with a minimum canopy spread of five (5) feet and a DBH of two and one half (2 1/2) inches. The small trees can be a maximum of thirty (30) percent at twelve (12) to fourteen (14) feet and minimum canopy spread of six (6) feet and DBH of two and one half (2 1/2) inches. Palm



trees shall have a minimum of six (6) feet of grey wood or clear wood and are counted as three (3) for one (1) (unless from the one (1) for one (1) list) and total palms can not make up more than forty (40) percent of the total trees.

- d. Street trees are required and additional to this subsection. Refer to Plant Material section for street tree requirements.

Sec. 90.97

Preparer's certification of landscape compliance

1. All zone or use districts, except H30A and H30B, shall require a preparer's Certification of Landscape Compliance bearing the original letterhead of the designing firm and licensing number shall be submitted to and approved by the Town of Surfside prior to issuance of any final Certificate of Use, Certificate of Occupancy, or Certificate of Completion. The preparer's Certification of Landscape Compliance shall contain a statement, signed and sealed by the landscape architect of record who prepared the approved plans, that the landscape and irrigation plans have been implemented and that all requirements of this chapter have been met. The original designing firm and the Town prior to the implementation of any changes and substitutions shall approve said changes or substitutions to the approved plan.
2. For a new H30A and H30B residence, the owner or owner's agent may certify in writing that landscape and irrigation have been installed according to approved plan(s). All changes or substitutions must be approved by the Town of Surfside prior to installation.
3. The Town of Surfside shall inspect all projects for compliance prior to issuance of a Certificate of Use, Certificate of Occupancy, or Certificate of Completion.

Sec. 90.98

Tree removal, tree relocation, tree preservation, and tree abuse

Tree removal/relocation permits and native plant community vegetation removal permits are required prior to the removal/relocation of trees, specimen trees, or any vegetation, pursuant to Section 24-60 of the Code of Miami-Dade County. Also, tree abuse including hack racking is prohibited within the Town. Tree protection barriers are required during site development to preserve existing and relocated trees. The Miami-Dade County Department of Environmental Resources Management is responsible for administering and enforcing these provisions.

Sec. 90.99

Landscape manual and materials

The Town of Surfside shall prepare and from time to time revise the landscape manual and any functional landscape materials regarding these requirements. Said manual and materials shall be made available to the public.

APPENDIX

EXHIBIT "A"

town of surfside

design guidelines for
single family residential properties
multifamily and commercial properties

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Multifamily and Commercial Design Guidelines page 37

Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's residential neighborhood by providing guidance for the design of new houses, additions and/or remodeling efforts in the existing neighborhood. These guidelines are intended to focus on the characteristics of neighborhood compatibility and to leave individual homeowners the maximum flexibility to build, expand or remodel to meet their own needs and objectives.

All new house construction, additions and remodeling projects must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to neighborhood character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of houses which harmonize with their surroundings and which demonstrate a high standard of quality.

It is important to acknowledge the suburban quality of the existing neighborhood and the community's expressed desire to increase the walkability of the area. Part of this agenda is ensuring that homes maintain an intimate relationship with the street they front. One of the challenges addressed through these guidelines is to accommodate the needs of a car-oriented lifestyle, while limiting the impact of the vehicles on the streetscape experience.

Lastly, the guidelines acknowledge that the existing houses are, in the majority of the instances, too small to accommodate today's lifestyles which encompass greater square footages of livable areas. In order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of homeowners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about residential construction at a number of levels:

- Homeowners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new houses, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions. It should be noted that the Guidelines present illustrated 'suggestions,' which should be interpreted as such and not as intended requirements for permit approval.
- Neighborhood residents should consult the Guidelines to understand the neighborhood compatibility concepts which will apply to new construction.

The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.

Objectives

The objectives of the Guidelines include:

- To encourage harmonious and attractive neighborhood experiences through attention to the exterior architectural quality and appearance;
- To diminish the visual prominence of garages from the street and promote a neighborly experience;
- To encourage a variety of options for building designs;
- To establish the appropriate articulation of buildings within the limitations of the zoning ordinances having regard for mass, volume, architectural detailing, finishes and location within the community;
- To establish design requirements for buildings prominent in community locations;
- To assist architects, designers and builders in the preparation of acceptable building designs;
- To promote the preservation of the existing quality and character of the neighborhood; and
- To provide implementation suggestions for the encouragement of the architectural historic character of potentially contributing or designated historic buildings.

Organization

The guidelines address four (4) general themes:

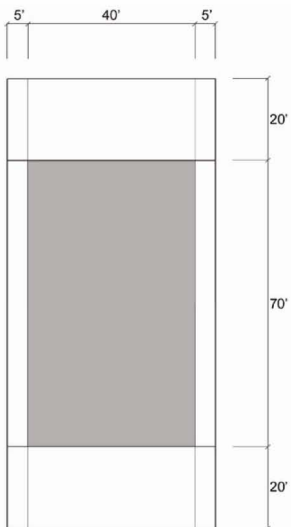
- **Elements of Building Design**
Identifies and addresses design integrity within the individual building.
- **Relationships to Adjacent Properties**
Identifies and addresses the interfaces between new construction and adjacent existing buildings.
- **Neighborhood Patterns**
Identifies building characteristics which are most apt to define a neighborhood's appeal and identity.

Parameters

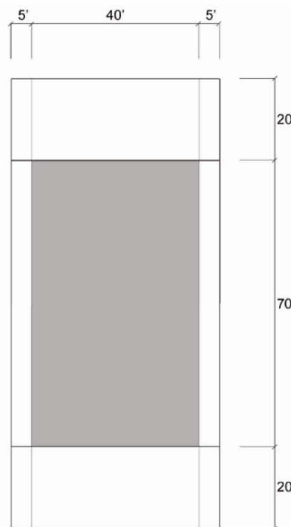
The zoning existing within the town's ordinances, with respect to use designation and maximum heights, are not recommended to change. Within the residential neighborhood, the maximum height is 30 feet and the setbacks are as reflected in the illustrations and the attached chart.

The zoning remains consistent in and applicable in all its provision except one. These design guidelines recommend that the provision limiting construction to two (2) stories be increased to three (3), provided that the building's height does not exceed the established maximum height of thirty (30) feet.

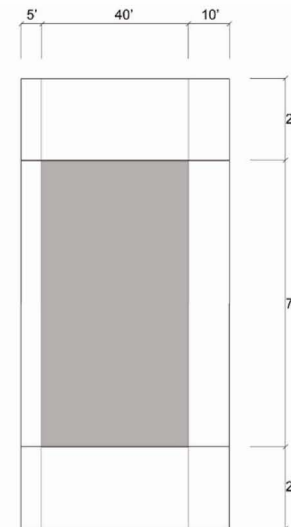
District		Minimum Lot Requirements				Maximum Height		Minimum Yard Requirements			
Zoning	Description	Lot Width	Minimum Area	Lot area per dwelling unit	Max. Lot Coverage	Stories	Feet	Front Yard	Side Yard	Corner	Rear
RS-1	Single Family	50 ft.	2,500 sf.	8,000 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.
RS-2	Single Family	50 ft.	1,800 sf.	5,600 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.



Waterfront Lots / RS-1



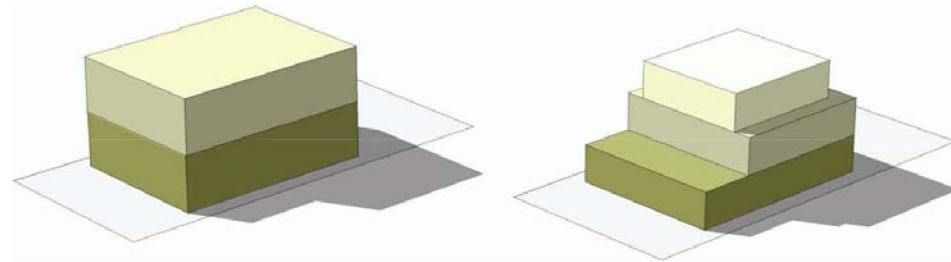
Interior Lots / RS-2



Corner Lots / RS-2

Building Massing

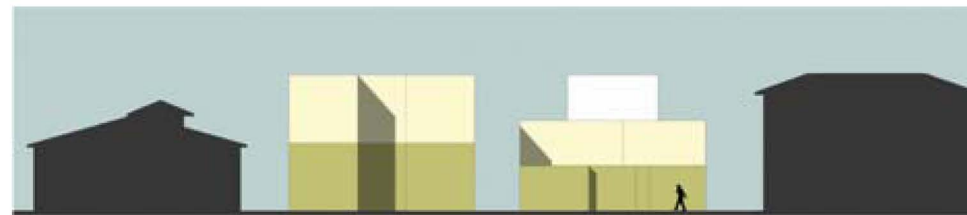
By increasing the number of stories permitted, from two (2) to three (3) and maintaining the height limitation to thirty (30) feet, the property owners are given more flexibility to internally distribute the space in accordance to the parameters described herein. Without the increase of stories, the only provisions of these guidelines that can realistically be implemented are those affecting the building's elevation only. Opportunities to resolve the volumetric distribution and massing of the legally permissible build-able area will have been missed. Because lots are limited in size, increasing the number of allowable stories to increase the floor areas' opportunities allows property owners to implement the parameters without incurring any liabilities upon the Town. Massing distribution should conform to Option A or Option B of the *Mass and Volume Distribution Criteria*.



Maximum Volume Build-out - Allowable Massing versus Proposed

Roof Lines

Because the Town has a variety of architectural roof treatments, the character of the neighborhood does not predicate the use of a specific roof-type. This allows for the homeowner to select a roof style that can accommodate their needs. This will be beneficial for those home owners who choose to maximize the buildability of their lots. Never the less, designs should attempt to provide roof lines and roof designs that, when viewed from the street, are harmonious with abutting properties. All roof slopes on a single building should have the same angle unless different slopes are inherent in the design's style.



Elevation - Maximum Volume Build-Out

Mass and Volume Distribution – Option A

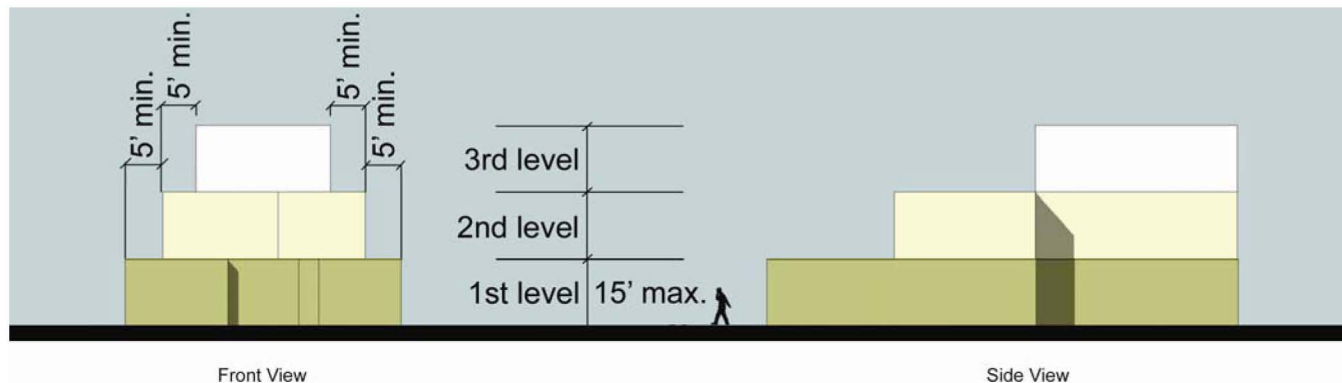
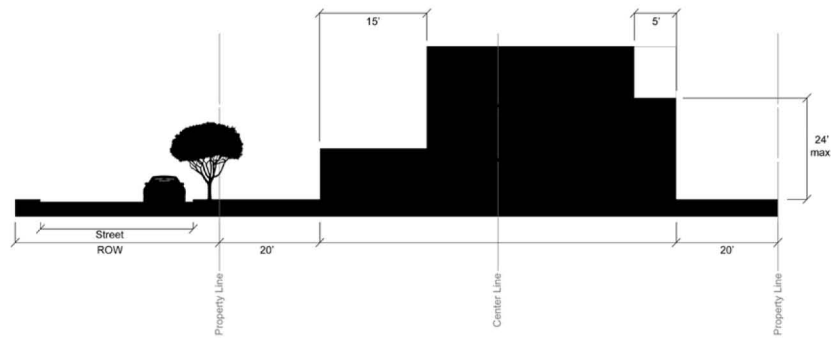
The massing of any new residential building or addition should be sensitive to the profiles of adjacent buildings and should locate second and third stories adequately to reduce the apparent overall scale of the building. This is necessary to ensure an adequate architectural and spatial relationship between new and existing buildings.

The first story should adhere to established zoning setbacks.

The second story should not exceed the ground floor area by 70% and should be setback a minimum of 15 feet from the front façade and a minimum of 5 feet from sides and rear facades.

Third stories or any wall planes exceeding 24 feet in height should provide an additional minimum 5 foot setback from all sides and rear elevations only, but should not be required from the front.

Building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.



Mass and Volume Distribution – Option B

The front façade of a building should be allowed to extend vertically a maximum of two (2) stores in height, provided that at least two (2) of the following criteria are met:

- A) The building should provide an open-air, transitional and habitable architectural element, such as a front porch or wrap-around balcony, for the entirety of the two-story façade (frontage and height). The transitory space should be a minimum of eight (8) feet deep and should be accessible from its corresponding floor elevation.



- B) A maximum of 60% of the facades frontage may be allowed to abut the front setback, with the remaining 40% setback an additional minimum of 12 feet;



- C) The building's façade should in its entirety be set back an additional 12 feet from the setback linear an additional 8 feet from any abutting property's single-story façade, whichever is greater but should not exceed 15 feet. Required transitory architectural elements may be allowed to encroach into the additional setback by 80%.



Transparency and Void Requirements

All elevations should provide for a minimum of 10% wall openings. Wall openings should be defined as either windows, doors or transitional spaces defined by porches, porticoes or colonnades.

Voids should be distributed throughout all facades facing a public Right-of-Way so as to create balance in the facades mass-void proportions and relationships.

Treatment of voids and transparencies should be consistent on all facades of buildings. Glass may be clear or lightly tinted, but should never be darkly tinted or should never have a reflective finish.

New windows should be placed to avoid direct views into existing neighboring windows. Large second story windows overlooking adjacent rear yards should be articulated to minimize views into adjacent rear yards.



Building Forms

Buildings' massing, as provided with the controlled volumetric distribution, should provide for increased light-plane access in-between buildings, even if maximum build-out occurs. This is critical for ensuring that adjacent properties have adequate access to natural light and ventilation. Additionally, properties should provide for greater privacy between buildings on the upper stories.



Natural Light Diagram

Main Entries

Main entries are critical in their established relationships to the street. Increase prominence and visibility from the street, promote a greater architectural relationship between the public and private realms and encourages a sense of neighborhood.

Main entries should be:

- Prominent and oriented to the street;
- Rendered in appropriate scale for the block as well as the individual building;
- Entry feature should not extend above the eave line of the structure; and
- Should not be obstructed from view by fences, landscaping or other visual barriers.



Decorative Features

Decorative features such as porch or balcony rails and columns, other columns and capitals, window sills and any other decorative elements should be stylistically consistent throughout the entire building.

Some elements, such as decorative window trims, should be consistent on all parts of the house, while others, such as porch and balcony rails, may apply only to those individual structures, typically those located at or near the front of the house.

For purposes of decorative features, consistency means the same materials, dimensions and design elements. Decorative consistency is perhaps most critical for additions to houses with architectural styles which include decorative features as important elements of the style. Decoration added to a house's addition only, where the original structure previously had none or a stylistically different decoration, should not be allowed.

Overall Architectural Style

The overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof. Particular care should be taken that building elevations and roof elements visible from streets and other public or adjacent spaces are stylistically consistent. Consistency should be determined by evaluating each of the building's elevations' components.



Mailboxes

The Town highly encourages mailboxes to be attached to the house. In the event that this does not apply, the following provisions should be implemented:

- 1) Materials should be true and consistent with the architectural character of the building in both color and texture.
- 2) Landscape planting or approved architectural elements should be used to minimize the visibility of the mailboxes from the public Right-Of-Way.

Decorative Permanent Elements

Decorative permanent elements should include any decorative feature not a part of the architectural facades, including but not limited to bird-baths, statuary, lighting poles and fixtures, columns, fountains, signage and outdoor artwork. Property owners should seek approval prior to installation of these elements.

Decorative permanent elements should be further defined as:

- 1) Any element larger than 36 inches in height or 60 inches in width;
- 2) Any outdoor element that remains installed for a period of time longer than 45 days;
- 3) Any element that requires a footing; or
- 4) Any element that utilizes electricity.

All decorative permanent elements should be in scale with all the façades of the property and should be consistent with the materials, colors and textures predominant of the architecture of the building. Consistency should mean the same materials, dimensions, proportions and design elements.



Garages and Parking Driveways

In general, new garages should be located and sized consistent with the established pattern of the neighborhood.

Attached garages located at the front or side of the house should be no wider than one necessary to accommodate the width of one car, and should never exceed 50% of the overall length of the facade. If a garage is provided to accommodate 2 cars, the garage entrances must have an exterior expression of two separate entrances, each a maximum of 10' wide, and separated by a minimum 18" wide vertical element consistent with the facade.

Attached garages on corner lots should be located to avoid driveway paving at or near the corner.

The width of paved driveways on private property as well as driveway cuts at the curb should be as narrow as possible. Curb cuts should not be two-cars wide, even if they provide direct access to a two-car wide driveway.

Paving accessible for parking in the front setback area should be limited to the width required for access to a garage or other required parking spaces.

Driveways should have a 2% cross slope or appropriate to promote containment of drainage on-site.

Driveway Treatments:

Asphalt driveways should not be permitted;

Driveways should be composed of materials and textures consistent with the overall character of the building;

The Town encourages the use of pavers, concrete may be used provided that it is color- and texture- treated;

Coloring on concrete should be consistent throughout the entire composition; and

Painted concrete should not be permitted.



Balconies, Decks and Lighting

New balconies or decks located more than 5 feet above grade on new or existing houses should be built no closer than 5 feet to adjacent single family side-property lines and no closer than 20 feet to adjacent rear property lines.

Lighting should never be allowed to shine directly onto adjacent residential properties. The view of light sources should be entirely shielded from adjacent properties.

Large, two-story building masses at the sides and rear of adjacent single family yards should be avoided to help preserve privacy and sunlight access for the neighboring property.



Wall Materials and Finishes

Wall material finishes should be appropriate to the style and style era of the house. For example, materials developed after the establishment of a particular architectural style are not appropriate on buildings of that style unless the new material is a high quality and deliberate reproduction of the original material. The same material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.

False, foam materials should not be allowed.



Roof Materials, Types and Slopes

Roof materials should be appropriate to the style of the house and, except for flat roofs or flat roof portions, should be the same product for the entire roof system. New materials designed for fire resistance are entirely appropriate as long as they replicate the traditional material.

Roof types and slopes should be generally the same over all parts of a single building. Exceptions are roof styles or architectural styles that traditionally involve varying slopes, such as architectural styles that sometimes combine flat and sloped roofs. In addition, hip overall roof designs are often used in combination with very small gable or shed roofs used to highlight a prominent element.

Restricted materials for roofs are pre-determined in the Town's Building Code, which restricts roofing materials to:

1. Clay tile;
2. White concrete tile;
3. Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is first approved by the planning and zoning board; and
4. Metal.



Windows and Trims

Window styles (double hung, casement, sliding, fixed, etc.) and frame materials (aluminum, wood, steel, etc.) are particularly important expressions of architectural style and should always be consistent among all elevations of a building. Window styles may vary depending on the specific use or size of the window for some architectural styles. Frame materials should never vary on a single building except in some limited cases when the frame material is being upgraded as in the case of renovations.

Window sizes and proportions are also important expressions of architectural style and should be consistent with the architectural style of the house. While window sizes on a single house most often vary by the purpose of the room, several styles, typically include larger uniform window heights all around the building. Several styles also traditionally employ the same window repeated in groups of two, three or four as a fundamental expression of the style.

Window, door and eave trim should be consistent on all elevations of the house, in terms of material, material dimensions and decorative features such as shape, carving, routing, reveals, etc. Replicating the original trim style for additions or remodels of older, traditional styles is particularly important.



Green Design

It is encouraged for all new construction to follow the LEED certification program. Higher LEED certifications (silver, platinum, etc.) are also encouraged.

Rehabilitation of existing structures should achieve the following standards to the greatest feasible extent:

- Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);
- Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
- Reduced coverage by asphalt, concrete, rock and similar substances in driveways and other areas to improve storm-water retention and reduce heat island effects.
- Installation of energy-efficient lighting in buildings, driveways, yards, and other interior and exterior areas;
- Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
- Planting of native shade trees to provide reasonable shade while remaining clear of overhead and underground utilities;
- Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- Provision for structural shading (e.g., trellises, awnings and roof overhangs) wherever practical when natural shading cannot be used effectively;
- Inclusion of shaded porch/patio areas; and

Historic Preservation

Initiate inventory of existing building stock by an architectural historian to determine and designate categories of historic preservation:

- Designated Historic Property
- Contributing Historic Property

Develop parameters to address the preservation,

- The restoration of at least 50% of the existing overall structure
- Restoration and preservation of 100% of the street front facades
- Historic Preservation-specific design review processes in accordance to the standards of the Secretary of the Interior.



Neighborhood Patterns

One of the challenges posed by new construction projects in existing residential neighborhoods is to create relationships between properties and streets that maintain adequate space, light and a sense of openness that complement the existing neighborhood's character.

Because the major objective of these guidelines is to ensure that new homes, additions and remodeling projects are appropriately compatible with the surrounding neighborhood, compliance with the guidelines in this chapter is essential for the preservation of the neighborhood character, and consistency with them will be an important component for those projects which qualify for approval.

Neighborhood Patterns Topics

Overall Neighborhood Pattern Scheme

Priority Lot Properties

Property Designation Diagram

Community Gateway Properties

Community Window Properties

Corner Lot Properties

Waterfront Properties

Upgraded Rear and Side Architecture

View Terminus Properties

Interior Lots

Multifamily

Commercial

Overall Neighborhood Pattern Requirements

The Overall Neighborhood Pattern Requirements should be applicable to all lots, irrespective of designation. These buildings should pay particular attention to the relationship between the street fronting facades, its treatment and articulation, and the street, always enforcing a pedestrian quality and character.

Priority Lot Properties

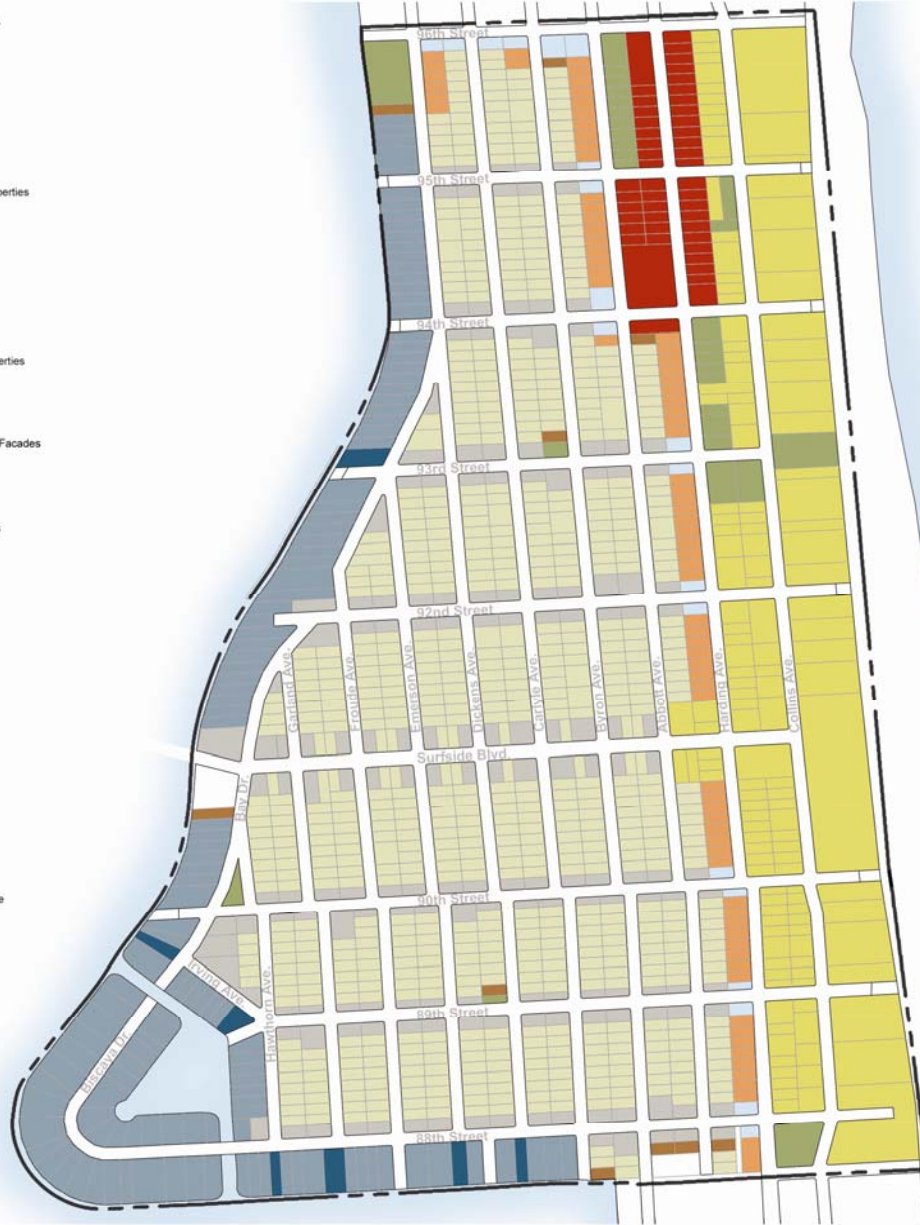
These guidelines identify important properties that aide in the definition of the edges defining the existing residential neighborhood. The strategic approach to identifying each and their importance acknowledges that dwellings in prominent locations, or "Priority Lots," have a higher degree of visibility within the public realm. Special design consideration is required for the publicly exposed elevations of these dwellings.

These priority lots are categorized as follows:

- Community Gateway Properties – properties that are located at important gateways to the neighborhood;
- Community Window Properties – properties that front an important visible edge to the neighborhood;
- Corner Lot Properties – properties that are located at corner lots within the neighborhood;
- Waterfront Properties – properties that have a waterfront exposure;
- Upgraded Rear and Side Facades – properties that have a rear or side façade that is publicly exposed.
- View Terminus – properties which location lines up with city street ends.
- Interior Lot Properties – properties located in the inner lots of the city blocks.

Property Designation Legend

-  View Terminus Properties
 -  Waterfront Properties
 -  Community Gateway Properties
 -  Corner Lot Properties
 -  Community Window Properties
 -  Upgraded Rear and Side Facades
 -  Municipal Use Zoned Lots
 -  Interior Lot Properties
 -  Multi-Family
 -  Commercial
 -  Not Applicable
 -  Historic Preservation Zone Boundary
- 



surfside

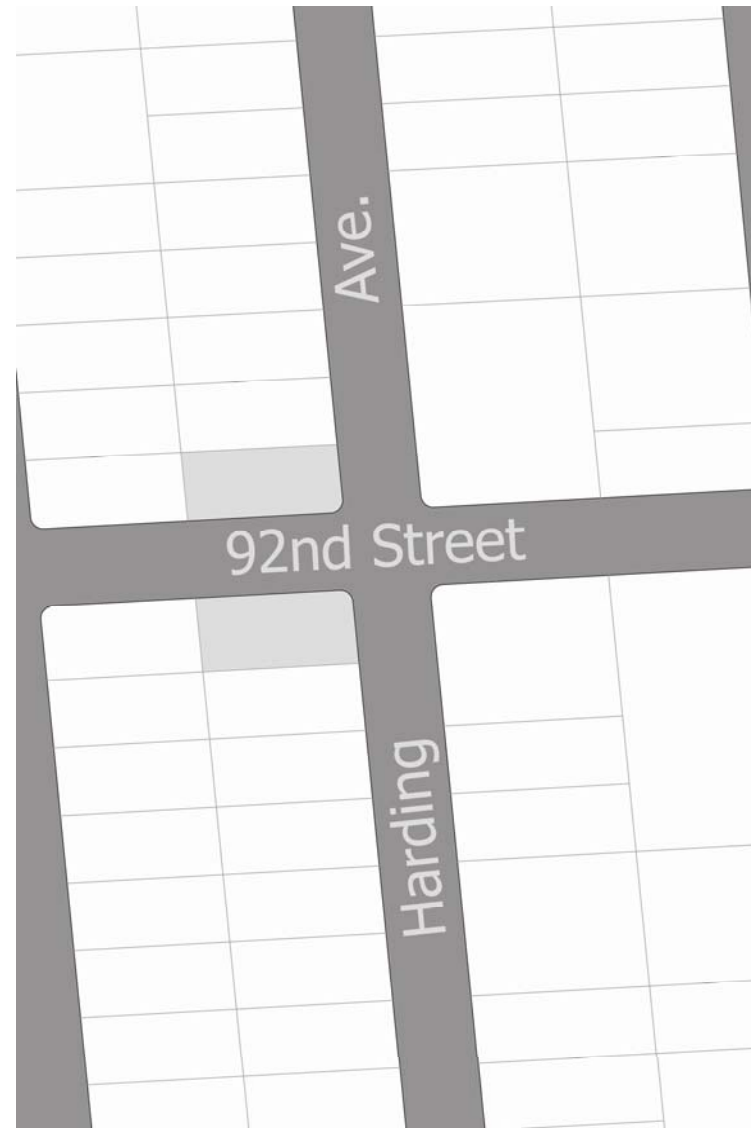
residential
design guidelines

Priority Lots – Community Gateway Properties

Community Gateway Properties are located at the entrances to the community from the external road system, principally Harding Avenue and 96th Street. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby. A high degree of architectural design quality will be expected for all elevations of these properties.

The preferred design is one that acknowledges the importance of the location and acknowledges the corner condition. The main entrance and driveways to garages or carports should face the entry roadway and should not face Harding Avenue or 96th Street. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Community Gateway Property, ensuring that:

- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Wrap-around porches should be provided;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Gateway Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Community Gateway Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



Priority Lots – Community Window Property

Community Window Properties are located along the edges of the community, principally Harding Avenue, Abbott Avenue between 94th Street and 96th Street and on Bay Drive just across the street from the 96th Street Park. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby.

A high degree of architectural design quality will be expected for the street facing elevations of these properties. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for the aforementioned elevation of a Community Window Property.

The facades should ensure that:

- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades for at least half the depth of the side elevations, measured from the front facade;
- Roof forms should be enhanced;
- Garages should be recessed from the front entrance feature;
- Distinctive architectural elements should be employed where architecturally appropriate; and
- Special attention has been given to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Window Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Community Window Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground

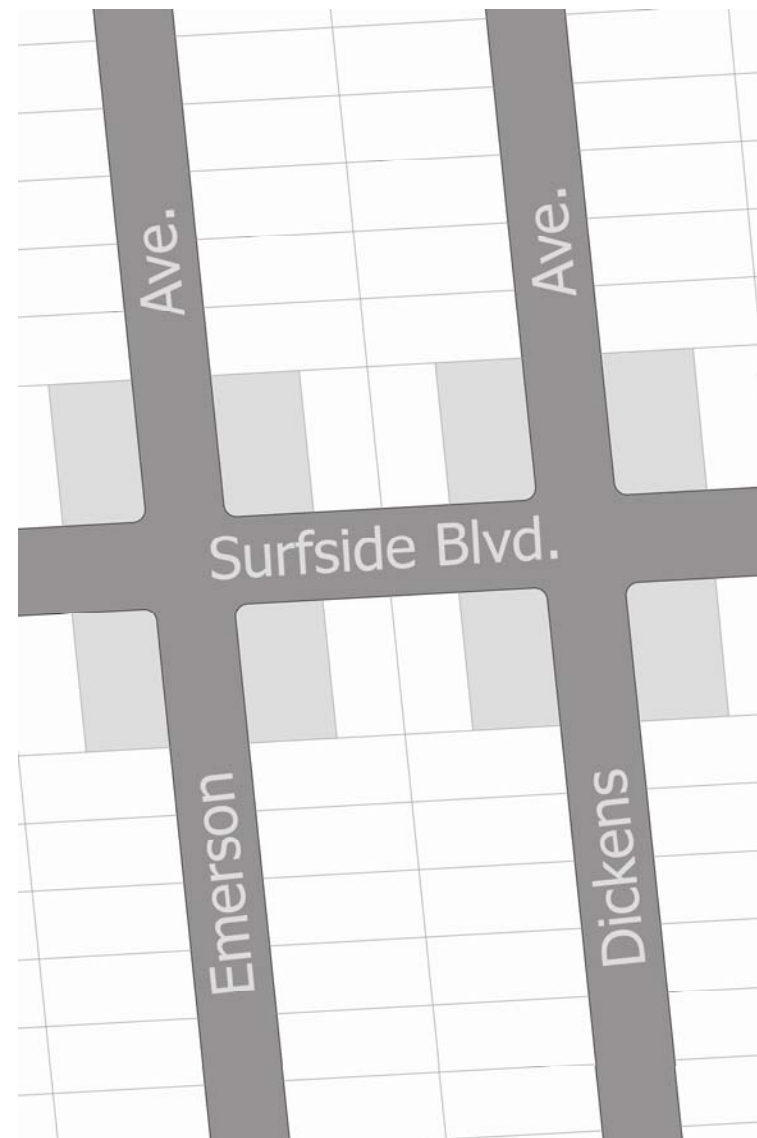
Priority Lots – Corner Lot Properties

Corner Lot Properties are located at the internal street intersections. These properties play an important role in setting the image, character and quality of the street. These properties should address both street frontages in a consistent manner and incorporate ground-level detailing which reinforces the pedestrian scale of the street. The following criteria should apply:

- The main entrance and driveways to garages or carports should face the long side of the lot;

Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Corner Lot Property, ensuring that:

- Wall cladding and finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Distinctive architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Corner Lot Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Corner Lot Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



Priority Lots – Waterfront Properties

Waterfront Properties are located at the waterfront edges of the neighborhood with at least one frontage onto Biscayne Bay. These properties play an important role in setting the image, character and quality of the neighborhood as perceived from the water. These properties should address both the street frontage and its water frontage in a consistent manner. The buildings should also incorporate ground-level detailing which reinforces a pedestrian scale at the street elevation.



Waterfront Property Diagram

Priority Lots – Waterfront Properties

The following criteria should apply:

- Wall finish treatments are consistent on all sides of the building;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Front elevations should engage the street and should not be obstructed behind dense landscaping, carports or excessive setbacks.
- Building mass and volume distribution should be distributed so as to not create imposing structures abutting the street or abutting properties;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.





Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Waterfront Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear**	50' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



Priority Lots – Upgraded Rear and Side Architecture Properties

Upgraded rear and side architectural elevations are required where these elevations are exposed to public view. This occurs in the following situations:

- Reverse frontage lots which back or flank onto a public road, or
- Lots which back or flank onto highly visible public uses such as open spaces, roads, parks, public walkways, institutional uses and commercial uses.

The exposed side and/or rear elevations of these buildings should have a level of quality and detail consistent with the front elevation. This should include, but not be limited to, features including:

- Enhanced window styles compatible with the architectural style of the overall design;
- Introduction of architectural features to evade blank, uninteresting walls;
- A balance of mass and voids achieved through the proper use of fenestrations; and
- The level of upgrade should be consistent with the level of public exposure.



Upgraded Rear & Side Architecture Property Diagram



Massing Example



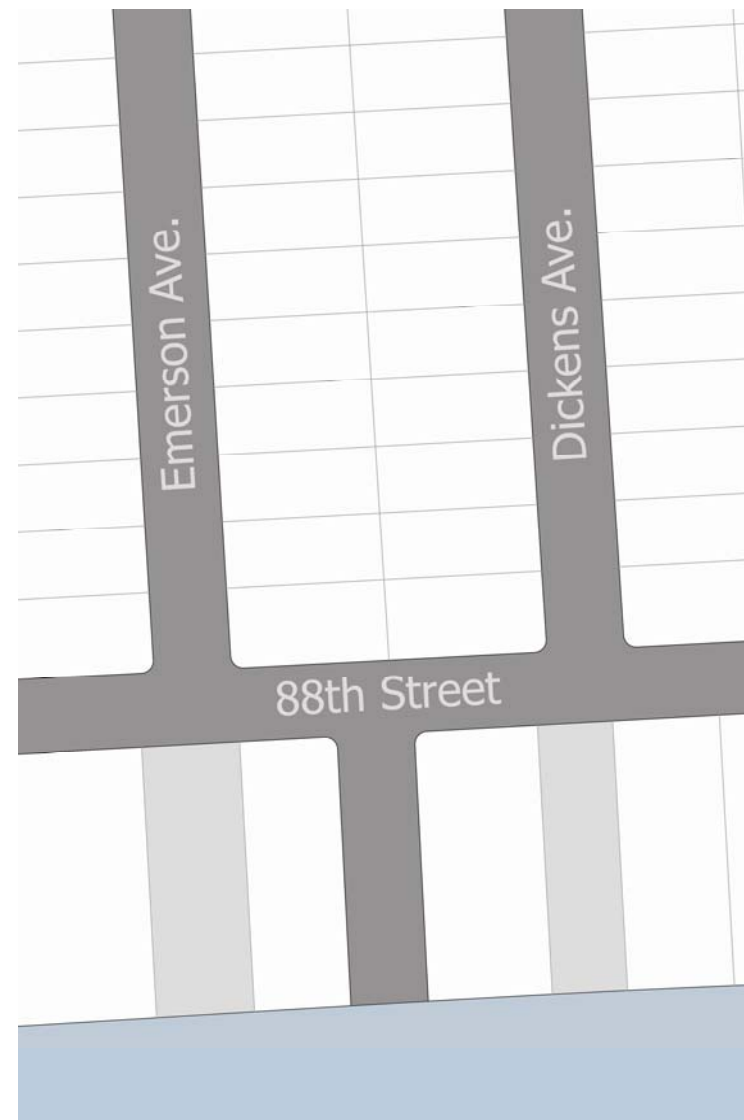
Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Upgraded Rear and Side Architecture Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Priority Lots – View Terminus Properties

Terminus Lot Properties occur at the top of “T” intersections, where one road terminates at a right angle to the other. These properties play an important role in the streetscape by terminating a long view corridor. Corner lots opposite these properties should frame the view from the street. Because of their prominence, View Terminus Properties should include such enhancement features as:

- Driveways should be located to the outside of a pair of View Terminus Properties to increase landscaping opportunities and reduce the prominence of the garage on the view;
- A greater setback from adjacent dwellings is encouraged where lot depth permits; and
- Architectural treatments which provide visual interest will be required for these parcels.



View Terminus Property Diagram



Massing Example



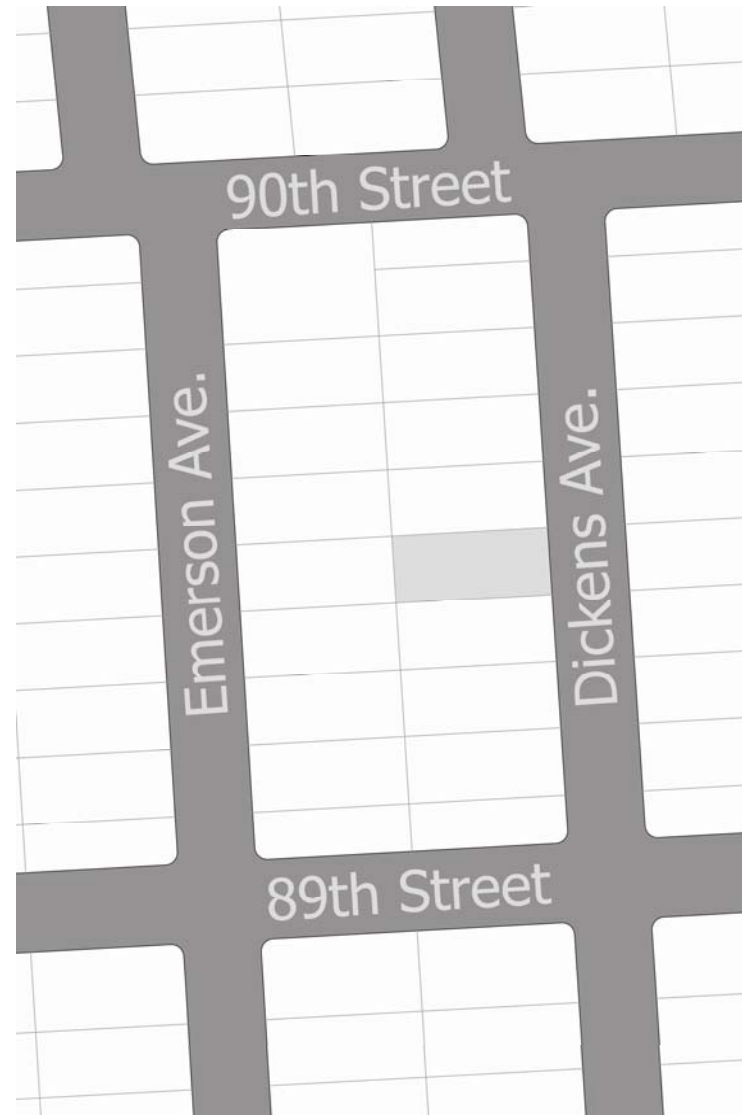
Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
View Terminus Properties	Per Existing Zoning Ordinance	30' Overall, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Priority Lots – Interior Lot Properties

Interior lots will be applicable to the general design criteria applicable as the basis for all lots, including criteria determining:

- Massing and Volumes
- Decorative Features
- Overall Style
- Garage and Parking Driveways
- Relationships to Adjacent Properties
- Roof Materials, Types and Slopes
- Wall Material Finishes
- Windows and Trims



Interior lot Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
			Front	20' Ground
Interior Lot Property	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's commercial and multifamily districts by providing guidance for the design of new buildings within the existing area. These guidelines are intended to focus on the characteristics of architectural compatibility and to leave individual property-owners the maximum flexibility to build to meet their own needs and objectives.

All new building construction must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of buildings which harmonize with their surroundings and which demonstrate a high standard of quality.

Lastly, in order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of property-owners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about multifamily residential and commercial construction at a number of levels:

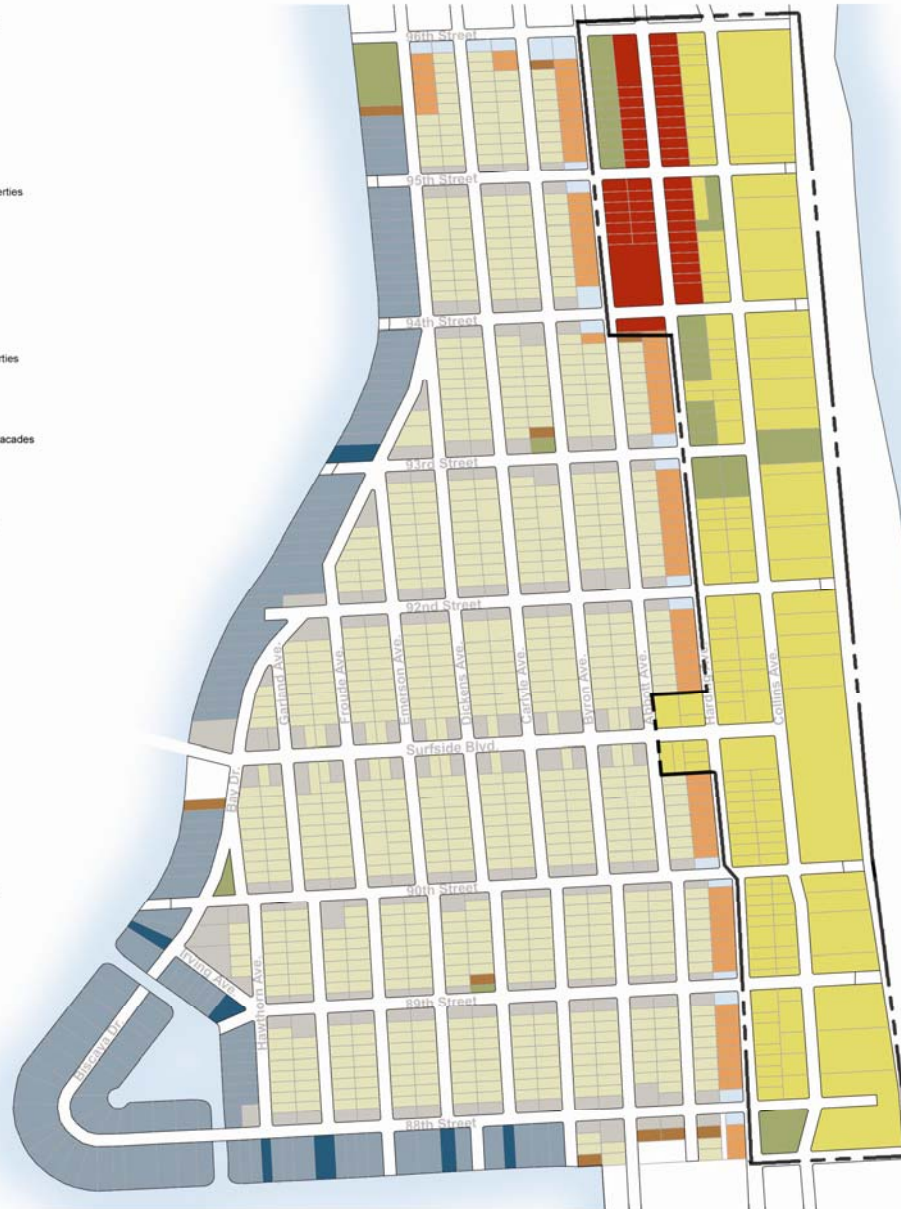
- Property-owners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new buildings, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions.
- Town residents should consult the Guidelines to understand the compatibility concepts which will apply to new construction.

The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.

Property Designation Legend



multifamily residential & commercial
 design guidelines

A. STYLE AND BUILDING FORM

New construction should recognize the historic context and should be compatible in massing, scale, proportion and articulation with the context. The predominant characteristics of these architectural articulations include:

Art Deco: Flat roofs, applied decoration, symmetrical or asymmetrical massing, openings are variable in size, shape and proportion

Mediterranean Revival: low pitched roofs, monumental massing, textured stucco, arched openings, varied ornamentation

Mid-Century Modern: horizontal emphasis, flat roofs with extended overhangs, asymmetrical, emphasized material changes, minimal to non-existent ornamentation

Streamline/Moderne: soft flowing masses, round corners, smooth surfaces, asymmetry, flat roofs with parapets, minimal to non-existent ornamentation

The Town highly discourages the literal replication of historic buildings or styles.

B. VOLUMETRICS

1. Building volumes and heights should be articulated to express different building components, features and programmatic elements. Buildings with one continuous height are prohibited.
2. Building lengths should not exceed those limitations as expressed in the zoning code.
3. Additional height articulation beyond those regulated by these requirements is encouraged to provide appropriate scale, rhythm and articulation, provided that no element exceeds the maximum height limitation.

C. ARTICULATION

1. Wall Plane

Building facades should incorporate breaks in the wall plane to provide massing and articulation compatible with the historic context. No single wall plane should exceed 60 feet in length on any exterior façade and should provide a minimum of a 6-foot separation from abutting wall planes.

2. Height Variations

Height variations among architectural elements should have an expression of no less than 5 feet in variation. Buildings with one continuous height should not be allowed.

3. Façade Articulations

All building facades, including alleyways, should be rendered consistently with the overall architectural treatment of the building.

4. Roof Articulations

The town highly encourages the promotion of roof-top gardens on the commercial district, especially for properties with rooftop visible from residential uses or for rooftops overlooking the public Right-of-Way.

D. ENTRANCES, WINDOWS & STOREFRONTS

(Requirements affecting all building façades fronting a public Right-of-Way)

1. Pedestrian entrances should be easily recognizable and oriented towards the street.
2. Divided light window mullions, where provided, should be through the pane (i.e. true divided).
3. Exterior burglar bars, fixed “shutters” or similar security devices are prohibited.
4. Security shutters, if provided, should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with the overall architectural character of the building and its surface materials.
5. Impact resistant glass should be used in all window exposures, except ground level non residential uses.
6. Window and storefront articulations should utilize similar proportions as those within the surrounding context and should be primarily oriented towards the street.

7. Multiple storefronts within a larger building should have consistent material qualities and articulation and should relate to the detailing of the entire building.
8. The bottom edge of windows should be no less than 24 inches above the fronting finished sidewalk elevation
9. For non-residential uses, the first vertical 10 feet of building elevation should be composed of 50% minimum transparency. Required percentages of transparency should be applied to street-facing building facades and walls that provide separation between conditioned interior and un-conditioned exterior space. Requirements should be applied within the first 10 feet of height above the public sidewalk. When possible, the bottom of transparent openings should be no higher than 36 inches above the public sidewalk. Display windows used to satisfy these requirements should have a minimum vertical dimension of 4 feet and should be internally illuminated.
10. Mirrored and heavily tinted glass should not be permitted.
11. The use of exterior shading devices and insulated glass is highly encouraged.

E. AWNINGS, CANOPIES, 'EYEBROWS' AND BALCONIES

1. Balconies should not extend into the frontage setbacks and should not be less than five feet (5') in depth.
2. Awnings and canopies should be incorporated to provide pedestrian protection from the elements as well as reduce overall building heat gain. Encroachments by awnings and non-permanent canopies over the public sidewalk are permitted, but should not be greater than 6' or the width of the sidewalk, whichever is less.
3. Awnings, canopies, "eyebrows" and balconies should have consistent height and depth;
4. Awnings, canopies, "eyebrows" and balconies should remain consistent with architectural details and proportions harmonious with the overall building design and historic context;
5. Awnings, canopies, "eyebrows" and balconies should be consistent on multiple storefronts within a larger building.
6. Awnings should be fabric or metal. Plastic awnings are discouraged.
7. To reduce visual clutter, awnings should be solid colors rather than patterned.
8. Awnings should utilize down lighting. Backlighting is prohibited.

9. Awning valances should generally be straight rather than curved, except for special architectural elements to be compatible with historic building styles.
10. Awnings should be attached to the building façades and should not be supported by vertical elements within the R.O.W.
11. All new and replacement awnings should meet these requirements.

F. SERVICE AREAS AND MECHANICAL EQUIPMENT

1. Service bays, mechanical equipment, garbage and delivery areas, to the greatest extent possible, should be fully enclosed, screened or located within the interior of the building. These areas should not be visible from the Right of Way and should not be visible from properties with adjacent residential or hotel uses.
2. Central air conditioning is required for trash rooms.
3. All exterior equipment should be placed on the roofs and should be screened by an architectural feature. This feature may be allowed to exceed the maximum height limitation.
4. All exterior equipment should be architecturally screened.

G. UNDERGROUND AND ABOVE-GROUND UTILITIES

1. All utilities including telephone, cable, and electrical systems should be installed underground.
2. Large transformers should be placed on the first floor/ground and contained with pad mounts, enclosures or vaults.
3. All exterior facilities, including but not limited to electrical raceways and transformers, permitted above ground should be fully concealed and screened by landscape.

H. PARKING REQUIREMENTS

1. PARKING STRUCTURES

- a. Entrances to parking garages should not be from Collins or Harding Avenue frontages.
- b. Enclosed parking levels should have an exterior architectural treatment designed to be compatible with neighboring buildings and the area's context.
- c. All ground levels of a parking structure facing a public Right-of-Way should be lined with active liner uses or screened.

I. MATERIALS AND FINISHES

1. The predominant surface is stucco with various finish applications. Similar finishes are encouraged, as well as the use of prevalent vernacular materials, such as stone (with native characteristics), metal, glass block and accent wood. Materials vernacular or characteristic to other regions such as flagstone, adobe, etc. are highly discouraged.
2. Materials should be true and genuine, rather than simulated. Multiple storefronts within a larger building should have consistent material qualities and articulation.
3. Within high traffic areas, higher quality materials that are easily maintained (in lieu of painted stucco) should be incorporated at the building's base.
4. Asphalt shingles should be prohibited.
5. Site accessories and materials that have a demonstrated durability and lend themselves to recycling or are produced through recycling means should be preferred. Materials should be made to limit the use of non-renewable resources, retain cultural resources, reduce waste and reduce the impact of manufacturing and transport of materials.
6. Woods that are certified as being from sustainable sources as designated by the Forest Stewardship Council should be utilized.
7. CCA treated woods should be prohibited for finish surfaces.

J. MULTIFAMILY RESIDENTIAL AND HOTEL DESIGN CRITERIA

1. Separating elements, such as fences or walls should not be permitted between multifamily residential uses and fronting streets.
2. Entrances to residential and hotel uses should be kept separate from entrances to other uses in the building.

K. COMMERCIAL USES DESIGN CRITERIA

1. Frontages along Harding Avenue are encouraged to provide a minimum six foot (6') wide continuous non-removable awning.
2. External street-level entrances should be recessed and centered a minimum of 36" from the building frontage.
3. Restaurant uses should have air conditioned trash and garbage facilities.

L. EXTERIOR LIGHTING

1. All exterior lighting should avoid unnecessary, excessively strong or inefficient lighting through selection of appropriate fixtures for each application, use of high-efficiency fixtures and photocell controls to turn lights off during daylight.
2. Energy efficient fixtures and lamps such as Metal Halide cut-off lamps with efficient light distribution and up-to-date energy-efficient light bulbs are encouraged.
3. Solar power (photovoltaic panels) energy supply for outdoor lights should be provided where possible.
4. All lighting should be controlled by photocell controls.
5. Lighting provisions should be designed in a manner that reduces light pollution and are turtle-friendly with a full cut-off for 'dark skies.'

M. ENVIRONMENTAL STANDARDS

1. It is highly encouraged for all new construction to achieve LEED certification. Higher LEED certifications (silver, platinum, etc.) are also highly encouraged.
2. Rehabilitation of existing structures should achieve the following standards:
 - a. Provision of bicycle racks or storage facilities in recreational, office, commercial and multifamily residential areas;
 - b. Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);
 - c. Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
 - d. Installation of energy-efficient appliances and equipment;
 - e. Reduced coverage by asphalt, concrete, rock and similar substances parking lots and other areas to improve storm-water retention and reduce heat island effects.
 - f. Installation of energy-efficient lighting in buildings, parking areas, recreation areas, and other interior and exterior public areas;
 - g. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
 - h. Planting of native shade trees to provide a minimum of 40% shade for all recreation areas, sidewalks and parking areas in addition to east and west faces of buildings.
 - i. Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;

- j. Provision for structural shading (e.g., trellises, awnings and large roof overhangs) wherever practical when natural shading cannot be used effectively; use of the Florida Solar Energy Center Document FSECON-8-86 should be utilized for proper sizing and placement of shade devices.
- k. Inclusion of shaded porch/patio areas in residential units; and
- l. Use of recycled materials.
- m. Use of light-colored materials.
- n. Use of “cool roof” techniques (light colored roof, high reflectance EPDM membrane roof or a planted roof).
- o. Provision of natural daylighting to lower energy use for lighting and to lower cooling loads.
- p. Provision of natural ventilation strategies to induce air movement through the building such as breezeways, interior courtyards, water elements to create a cooling effect, operable windows, high ceilings, and fans.

N. POTABLE WATER STANDARDS

- 1. All development should make adequate provisions for water conservation in accordance with the standards established by the USGBC LEED Rating System.

O. SECURITY SHUTTERS STANDARDS

- 1. Security shutters should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with surface materials.

ORDINANCE NO. 10-1558

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” OF THE CODE OF SURFSIDE, FLORIDA BY REPEALING AND REPLACING CHAPTER 90 ENTITLED “ZONING” IN ITS ENTIRETY; ADOPTING A NEW CHAPTER 90 ENTITLED “ZONING” INCLUDING ADOPTION OF AN OFFICIAL TOWN ZONING MAP FOR ALL DISTRICTS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) has been updating and streamlining its Zoning Code and had amended its official Zoning Map to better reflect the Town’s future needs and community vision; and

WHEREAS, this Ordinance purports to repeal and replace Chapter 90 “Zoning” in its entirety, including but not limited to, Ordinance 08-1491, all subsequent amendments thereto, up through and including the date of this Ordinance (and including but not limited to 08-1504, 08-1505, 09-1510, 09-1514, 09-1515, 09-1520, 09-1523, 09-1524; 09-1526; 09-1528, 09-1529; 09-1532; 09-1539; 09-1542; 10-1545;10-1549;10-1550; 10-1551 and 10-1552) as well as the official Zoning Map, as may have been amended from time to time, all of which is incorporated into the revised Zoning Code attached hereto as Exhibit “A”; and

WHEREAS, after the prior intended adoption on May 13, 2008 as well as the hearings for each amendment thereto since 2008, and properly noticed public hearings on each amendment before the Local Planning Agency pursuant to Section 163.3174 (4) (c) which in each case determined that the aforementioned Zoning Code, Official Zoning Map, and all updates thereto contained attached as Exhibit “A” were (and are) consistent with the Town Comprehensive Plan; and

WHEREAS, the Town Commission has reviewed this Ordinance at duly noticed and held public hearings beginning June 8, 2010 and before the LPA which again determined that it is consistent with the Town's comprehensive plan and the continuing development of the vision of the Town, as well as all other requirements of the law; and

WHEREAS, all of the recitals contained in Ord. 08-1491 are hereby incorporated into and fully adopted as part of this ordinance and the zoning code adopted herein.

WHEREAS, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest as well as promotes the public health, safety and welfare of the citizens of the Town of Surfside.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. Each of the above stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Adoption of the Zoning Code.

- A. The Town Commission hereby repeals the existing Chapter 90 "Zoning" of the Town Code (including Division II Signs) and replaces it with the Zoning Code, the Official Zoning Map, together with all amendments to the Zoning Code adopted since May 13, 2008 attached hereto as composite Exhibit "A" and incorporated as if fully set forth herein subject only to the removal of "hotel" as a permitted use from the H30C.
- B. It is the not the intent of this Ordinance to increase existing heights, densities or intensities in any manner whatsoever. Accordingly, regardless of the measurements, computations or considerations, the density, intensity and

height of development and structures within the Town of Surfside shall not exceed the maximum allowable floor areas, maximum allowable floor area ratios or the maximum allowable building heights that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect on the date that this amendment was adopted by the electorate in 2004 and to the extent it was further implemented by the Zoning Code previously in effect in 2007.

Section 3. Repeal of Conflicting Provisions.

All provisions of the Code of the Town of Surfside and any prior Official Zoning Maps that are in conflict with this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part. It should be noted Section 90-71 et. seq. of the Code contains its own severability clauses with respect to “Division II Signs” and these severability provisions with respect to Signs shall govern over this general severability clause if any section of the Code between Section 90.71 through 90.80 is held invalid or unconstitutional.


Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Surfside, Florida, Code of Ordinances; 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 6. Effective Date. This Ordinance shall be retroactive to May 13, 2008 upon adoption on second reading.


PASSED and ADOPTED on First Reading the 8th day of June, 2010.

PASSED and ADOPTED on Second Reading this 10th day of Aug. 2010.



Daniel Dietch, Mayor

Attest:



Debra Eastman
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

Moved by: Commissioner Kopelman

Second by: Commissioner Karukin

Vote:

Mayor Dietch	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Graubart	yes	<input type="checkbox"/>	no	<input checked="" type="checkbox"/>
Commissioner Karukin	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Kopelman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Olchyck	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>

Town of Surfside Zoning Code



Prepared by:



an Employee Owned Company

Calvin, Giordano & Associates, Inc.

EXCEPTIONAL SOLUTIONS

1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316
Phone: 954.921.7781 • Fax: 954.921.8807

May 2008



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Article 1 In General

Sec. 90.1 General Rules of Construction.

The following general rules of construction shall apply to the regulations contained in this chapter:

1. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary.
2. Words used in the present tense include the past and future tenses, and the future the present.
3. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.

Sec. 90.2 Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

Accessory building: a detached covered or screened subordinate building or a portion thereof, the use of which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building or use. Where there is no main building on the lot, an accessory building shall be considered as a main building for the purposes of the height, area and bulk regulations.

Accessory use: a subordinate use which is incidental to and customary in connection with the main building or use and which is located on the same lot with such main building use.

Alley: a public or private thoroughfare which affords only a secondary means of access to abutting property.

Awning: a detachable, roof like cloth cover, supported from the walls of a building for protection from the sun or weather.

Bar: an establishment licensed by the state which is devoted to the selling or the dispensing and drinking of alcoholic beverages on the premises.

Basement: that portion of a building between floor and ceiling which has at least one-half of its height below the grade of the street on which it fronts. The height of a basement above grade shall not exceed one-half of the average height of a story in the building.

Breezeway: a covered passageway or space between the main building and an accessory building, open on two sides and the roof of which is structurally integrated with the buildings it separates.

Building: any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

Building area: the area within the confines of the exterior walls of the main building, accessory buildings, covered porches and terraces.

Building, completely enclosed: a building having no outside openings, other than doors, windows, and ventilators.

Building, main: a building in which the principal use of the lot on which it is located is conducted, or is intended to be conducted.

Bulk: a term used in these regulations to describe the size (and shape) of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.



Business:

1. Includes all vocations, occupations, professions, enterprises, establishments and all activities and matters, together with all devices, machines, vehicles and appurtenances used herein, and of which are conducted for private profit or benefit, either directly or indirectly, on or from any premise in the town
2. Does not include the customary activities of religious, charitable, nonprofit service clubs and organizations or educational nonprofit institutions as those terms are defined in Division 205, Florida Statutes, as may be amended.

Cabana: a permanent or portable bath cabin on the exterior of a residence, hotel or apartment house, together with only such accessories as wood slat walks or decks, terraces, rubbing rooms and toilet facilities, but not intended for sleeping or living quarters. Cabanas erected on the exterior may be of pipe frame and canvas, wood frame and masonite and be constructed in such a manner that they are portable and easily dismantled in the event of a hurricane. Cabanas of any other type shall be built of masonry. Cabanas shall be permitted only in conjunction with an outdoor swimming pool.

Canopy: a permanent, roof-like cover made of cloth, metal, vinyl or other permanent material supported from the ground or deck or floor of a building, and from the walls of a building for protection from sun or weather.

Caretaker's quarters: living quarters within a portion of a main building or in an accessory building located on the same lot with the main building, used for workers employed on the premises and not rented as a separate dwelling.

Carport: a roofed and usually wall-less shed projecting from the side of a building, used as a shelter for automobiles.

Certificate of Occupancy, Final: a document issued by the Town Manager or designee certifying that he/she reasonably believes a building, or part thereof, and its occupancy to be in compliance with the minimum standards of safety, as set forth in the Florida Building Code, prior to the building's occupancy and after its inspection and that said building is in conformity with all other applicable laws and regulations.

Certificate of Use: a document issued by the Town Manager or designee that the zoning use classification of any business, within any approved structure or building or unit therein, is allowed prior to its occupancy and after inspection of the premises and proof of compliance with all the requirements of the Town Code of Ordinances and all other applicable laws and regulations; provided, however, that no Certificate of Use shall be issued until it has been reviewed and approved by Town Manager or designee.

Clinic: an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together in a business relationship. The term does not include a place for the treatment of animals.

Club, private: a building and facilities or premises, owned and operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. A private club may include the normal accessory uses such as tennis courts, cabanas and parking spaces.



Common area: a room or designated area within a building or complex of buildings zoned for residential use served by shared or public parking area, which is reserved for the exclusive use of the residents of the building or complex and their invited guests, and as an accessory use to the primary residential use of such buildings.

Conditional use: any use listed in Section 90-23 as a conditional use which would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

Design Guidelines: Design Guidelines, as adopted by the Town of Surfside, intended to provide direction and suggestions for all development.

Detached Single-Family: One (1) dwelling unit, other than a mobile home, sharing no walls with another dwelling unit.

District: any section of the Town within which the zoning regulations are uniform. (See district map.)

Duplex, two-family dwelling: Two (2) dwelling units attached by a common party or firewall in one building.

Dwelling: a building or portion thereof, designed or used exclusively for residential occupancy.

Dwelling unit: a room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family.

Family: an individual or two (2) or more persons related by blood or marriage or a group of not more than three (3) unrelated persons (excluding workers employed by the household) living together as a single housekeeping unit in a dwelling.

Fence: a structure forming a physical barrier constructed of wood, aluminum, or other materials except chainlink or wire.

Filling station: any building, structure, or land used for the sale at retail of motor vehicles fuels, oils, or accessories, or for the servicing or repairing of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting, and excluding public garages.

Floor area: the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. Basement space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

1. In particular, floor area includes:
 - a. Elevator shafts or stairwells at each floor.
 - b. Floor space used for mechanical equipment.
 - c. Floor space in penthouses.
 - d. Attic floor space (whether or not a floor has been laid) providing structural headroom of seven (7) feet six (6) inches or more.
 - e. Floor space in interior balconies or interior mezzanines.
 - f. Floor space in porches and pools enclosed with plastic, glass or permanent type of material.



- g. Any floor space used for residential use, no matter where located within the building.
2. However, the floor area of a building shall not include:
 - a. Basement space when used for parking of vehicles, as provided in the design standards for underground parking in this Code.
 - b. Accessory water tanks or cooling towers.
 - c. Uncovered steps and exterior balconies.
 - d. Interior balconies. The width of an interior balcony shall not be greater than the depth.
 - e. Covered or uncovered terraces, patios, breezeways, or porches which are open on two (2) sides.

Floor area ratio: the floor area of a building or buildings on any lot divided by the area of the lot.

Franchise chain: nationally recognized retailer or restaurant.

Frontage, street: the distance along a street line from one (1) intersecting street to another or from one (1) intersecting street to the end of a dead-end street.

Frontage, lot: the distance for which the front lot line and street line are coincident.

Garage, parking: a building or portion thereof designed or used for the temporary storage of motor-driven vehicles.

Garage, private: an accessory building, not exceeding nine hundred (900) square feet in floor area, designed or used for the storage of not more than four (4) automobiles.

Grade: the average datum or elevation of the crown of the road upon the street serving the lot or building site.

Height: the vertical distance from the grade, which is the average datum or elevation of the crown of the road upon the street serving the lot or building site, to the highest point of the roof.

Hotel: a building in which lodging is provided and offered, including all utilities and housekeeping services, to the general public for compensation, with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside lobby supervised by a person in charge at all times.

1. Hotel room means a room or group of rooms in a hotel intended for rental to transients and not intended for use or used as a permanent dwelling.
2. Each hotel room shall have a private bath attached thereto, but no kitchen facilities therein.
3. The existence of separate utility meters serving any room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an apartment.

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Indian Creek bulkhead line: the bulkhead line as defined in Section 14-101.

Interior balcony: a platform that is supported by the wall of a building that is surrounded by three sides of the building and open on one side.



Loading space: a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks.

Lot: a parcel of land occupied or which may be hereafter occupied by a building, buildings and any accessory buildings, together with such open spaces and parking spaces or area as are required under this Article and having its principal frontage upon an officially approved street or place. "Lot" includes the word "plot" or "parcel" or "tract" or "site."

Lot area: the total horizontal area within the lot lines of the lot. In determining usable lot area in the H120 district, it shall be from the west lot line to the erosion control line and the north lot line shall be the north boundary and the south lot line shall be the south boundary.

Lot, corner: a lot abutting upon two (2) or more streets at their intersection.

Lot coverage: the percentage of the total area of a lot that, when viewed from above, would be covered by all principal and accessory buildings and structures, or portions thereof; provided however that allowable exclusions, as described under "floor area," shall not be included in determining the building area.

Lot, depth of: the average horizontal distance between the front and rear lot lines, except where a lot abuts the ocean, Indian Creek or other established waterway; then the depth of the lot shall be the average horizontal distance between the front lot line and the erosion control line.

Lot, front: shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street.

Lot, interior: a lot other than a corner lot.

Lot of record: a lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of the county; or a parcel of land which became legally established and defined by a deed or act of sale.

Lot, through (double-frontage): a lot having a frontage on two (2) parallel or approximately parallel streets or places.

Lot width: the horizontal distance between the side lot lines measured at the required front yard line and parallel to the front street line, or measured at the street line if no front yard is required.

May: permissive

Multi-dwelling structure: a residential building on a plot, consisting of three (3) or more dwelling units, having at least three (3) common party walls with adjacent dwelling units, except for end or corner units.

Nonconforming lot: a lot which had a separate existence prior to the enactment of these zoning regulations, or any amendment thereto, which requires a larger area, frontage, width or depth than that which existed prior to such enactment.

Nonconforming structure: a structure which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the restrictions as to size, nature of construction, location of the structure on the land, or location of the structure in proximity to other buildings required by the regulations adopted subsequent to its construction, and which is continuously maintained after the effective date of such regulations or amendment thereto.



Nonconforming use: a use of land and/or buildings which lawfully existed prior to the enactment of these regulations or any amendment thereto, which does not comply with the use restrictions applicable to the district in which it is situated, and which is continuously maintained after the effective date of such regulations or amendment thereto.

Ocean bulkhead line: that bulkhead line as defined in Section 14-86.

Occupied: possession and use of a structure for its intended purpose. The words "used" or "occupied" include the words "intended," "designed" or "arranged" to be used or occupied.

Parking lot: an open, unoccupied area of land used or required for use for parking automobiles exclusively and in which no gasoline, oil, services, wash-racks or accessories are sold or no other business conducted.

Parking space, off-street: a paved area not in the street or alley and having an area of not less than nine (9) feet by twenty (20) feet, exclusive of driveways, permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Person: any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator receiver or other fiduciary.

Pervious Area: Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water directly into the ground.

Place of business: any structure used for the purpose of exercising the privilege of engaging in business within the Town limits.

Place of public assembly: any area where individuals assemble, whether publicly or privately owned and maintained. Includes, but is not limited to, public assembly buildings, such as auditoriums, private clubs and lodges, community centers, clubhouses and theaters; and places of worship or other facilities that are used for prayer and assembly by persons of similar beliefs.

Regulations: the whole body of regulations, text, charts, tables, diagrams, maps, notations, references and symbols, contained or referred to in this chapter.

Restaurant: an establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises and every establishment preparing food to be called for, delivered to or taken out by customers.

Roof Deck: An open, unroofed floor structure used in conjunction with a principal building and installed on the roof of a building.

Setback: the minimum distance required by a zoning district that all structures shall be from front, side and rear lot lines. Setback includes the words "required yards" or "minimum required yards" and "minimum yards."

Shall: always mandatory and not merely discretionary.

Show window or display window: an area enclosed on one (1) or more sides by glass, adjacent to the public right-of-way, for the purposes of displaying signs and merchandise to the public. Where transparent glass constitutes part of a front or side of a building adjacent to the public right-of-way, all areas within five (5) feet of such glass shall constitute a show window.



Site plan: a drawing illustrating a proposed development of a lot or tract, in accordance with the specifications and requirements set forth in Section 90-19.8 and 90.20(3)(b).

Special exception: a use that would generally not be appropriate in the zoning district, which may be authorized by the Planning and Zoning Board if specific provisions and controls are applied.

Story: that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor next above it, then the space between such floor and ceiling next above it.

Street: a public thoroughfare which affords the principal means of access to abutting property.

Streetline: a dividing line between a lot and the adjacent street.

Structure: anything constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground, including, but not limited to buildings, individual units within a building, trailers/construction trailers, signs, backstop for tennis courts, swimming pools, fences, screen enclosures, and pergolas.

Structural alterations: any change that would change the shape or size of any portion of the exterior of the building or structure, including any work affecting the supporting members of a building or structure, such as bearing walls, columns, beams, arches, floor or roof joists, or girders.

Substantial improvement: any combination of repairs, reconstruction, alteration or improvements to a building, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building. The market value of the building should be:

1. The appraised value of the building prior to the start of the initial repair or improvement;
2. Such other value as approved by the federal government or the state; or
3. In the case of damage, the value of the building prior to the damage occurring.

This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Suite-hotel: a hotel containing one or more suite-hotel rooms as defined below. A minimum of fifteen (15) percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. The building shall not have open exterior walkways providing access to units. Provided that all conditions of this Code are met, a suite-hotel may be a timeshare property as defined in F.S. Ch. 721.



Suite-hotel room: a hotel room in a suite-hotel containing not less than five hundred twenty-five (525) square feet of net useable interior space and shall contain kitchen facilities.

Swimming pool: any permanent structure containing a body of water intended for recreational purposes, including a wading pool.

Townhouse: Two (2) or more dwelling units attached by a common party or fire wall with each unit having two (2) or more stories.

Transient: any person who exercises occupancy or is entitled to exercise occupancy of any structure or part thereof by reason of renting, leasing, letting or granting a license for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

Use: any purpose for which buildings or other structures or land may be arranged, designed, intended, maintained, or occupied; or any occupation, business, activity or operation carried on or intended to be carried on in a building or other structure or on land.

Wall: a structure or device forming a physical barrier that is constructed so that the vertical surface is closed to prevent the passage of vision in a horizontal plane.

Weep Holes: small holes in a retaining wall or other ornamental wall where it may be necessary to drain off excess water to avoid pressure build-up and ponding of water.

Yard: an open area which is on the same lot as a building and which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these regulations.

Yard, front: a yard across the full width of the lot extending from the front line of the building to the front street line of the lot.

Yard, rear: a yard extending the full width of the lot between the main building and the rear lot line.

Yard, side: a yard on the same lot with the building between the main building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

Sec 90.3

Enforcement, interpretation, purpose and conflict.

1. The Town Manager or designee shall designate personnel who shall have the authority to enforce the provisions of this Code.
2. Where it is found that any of the provisions of this Code are being violated, enforcement proceedings may be initiated against the real property owner, the tenant if applicable and any other person violating the provisions of this Code. Any enforcement procedure authorized by the Town of Surfside Code of Ordinances or state law may be used to enforce the provisions of this Code. It shall be at the discretion of the Town Manager or designee to determine which method of enforcement is appropriate and whether more than one method of enforcement should be brought.
3. In addition to enforcement by the Town Manager or designee, the provisions of this Code may be enforced by the Surfside Police Department if appropriate.
4. Further, the Town Commission may direct the Town Attorney to bring an action for injunctive relief in appropriate circumstances.



5. Where this Code includes regulations on the same point as contained in any other law or ordinance, the provisions of this Code shall govern; except that where the regulations of the other law or ordinance are more restrictive than those of this Code, the other shall govern.
6. In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreement, provided however, that where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces or yards or lot areas than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of these regulations shall govern.

Sec. 90.4

Policy and objectives.

The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, morals, health, order, convenience, prosperity, and general welfare of the citizens of the Town and of the citizens of Miami-Dade County, Florida, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the civic amenities of beauty and visual interest, and for development in accord with the comprehensive plan by establishing zoning districts and by regulating the location and use of buildings, structures, and land for trade and residence, by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces and the density of same. To accomplish these objectives, the regulations and districts and accompanying map have been designed with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses.

Sec. 90.5

Compliance with regulations.

1. Purpose: Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.
2. Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.
3. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
4. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.



5. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
6. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.
7. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area regulations of the district in which it is located.
8. No building shall be erected or moved except in conformity with the established flood criteria, as indicated on the most current edition of the Federal Flood Insurance Rate Maps and in Chapter 42, Article II, applicable to the lot on which the building is located.
9. No building shall be erected or enlarged after the effective date of these regulations, which reduces any level of service standard established in the Town's adopted Comprehensive Plan.
10. All improved properties shall have their street number displayed and clearly visible from the street on which the front entrance of the building faces. In the SD-B40 and the H120 districts, all properties additionally shall have their street numbers displayed and clearly visible from the rear of the property.
11. Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:
 - a. A governmental act of development approval was obtained prior to the effective date of this Chapter or prior to the effective date of an amendment to this Chapter; and
 - b. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
 - c. That it would be highly inequitable to deny the property owner the right to complete the development.

90.5.1 Only one (1) main building and the accessory buildings and uses customarily incident thereto shall be located on any single lot. In the case of single-family dwellings, only one (1) kitchen shall be provided on each lot.

Sec. 90.6 Zoning in progress, applicability, temporary hold on permits and Licenses

1. Purpose. The zoning in progress doctrine ("zoning in progress") generally allows the Town to apply, on a retroactive basis, if necessary, changes to zoning regulations or to the zoning district status of property, to previously approved or currently in process development applications. Additionally, the zoning in progress allows a temporary hold on permits and licenses if there is a change in zoning, which is already in progress that would affect the permit or license.
2. Initial adoption of zoning regulations. Zoning in progress shall be applied to the initial adoption of this Section in the following manner:
 - a. Zoning in progress shall not be applied to the extent that vested rights are established.



- b. Zoning in progress shall apply to applications for development approvals, which were filed with the Town after the cut-off date established in (2) above. Upon the adoption of any impact fees, all applicants will be responsible for the remittance of same to the Town, irrespective of time of filing of the application, up to and including to the time of issuance of a building permit.
 - c. Zoning in progress shall not apply to the grant of any moratorium waiver specifically granted by the Town Commission.
3. Future amendments to zoning regulations. When an amendment to the zoning regulations or in the application of any particular zoning district classification to land is being considered, the Town may impose a temporary hold on any development applications pending before the Town with respect to the area of the zoning regulatory text which is the subject of the amendment. The hold shall commence upon the date that the notice of zoning in progress is published in a newspaper of general circulation in the Town and shall continue in effect for a period from the date of notice until the subject change, with or without amendments, shall have been approved or disapproved by the Town Commission or for a period of three (3) months, whichever is sooner, unless such development application would be in conformity with the more restrictive of the existing zoning district status or the zoning district regulations as compared to the proposed zoning district status or zoning district regulations. An affected person may appeal the Town staff's application of this provision to the Town Commission for review by the Town Commission by filing a notice with the Town Manager.

Sec. 90.7

Buildings under construction.

Any building or structure for which a lawful building permit has been issued, and the construction of which has been started prior to the effective date of the ordinance from which this chapter was derived may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided such construction is completed within one (1) year after the effective date of the ordinance from which this chapter was derived.

Sec. 90.8

Outstanding permits.

- 1. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid building permits, authorizing the construction of buildings, structures, additions or alterations, the use or construction of which do not conform to the requirements of this chapter, such permits shall be void unless actual construction work, excluding grading or excavating, is substantially underway on that date and the underlying vested rights to construction are vested. Vested rights are defined in 90-5.11.
- 2. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid permits, authorizing the use of land or buildings without construction work, and where such use is not permissible under the terms of this chapter, such permit shall be void unless the use is actually in operation on that date.

Sec. 90.9

Relationship to the comprehensive plan.

All regulations contained in this chapter and the maps attached thereto shall be amended, supplemented or changed only in compliance with Florida law and shall be consistent with the Comprehensive Plan.



Sec. 90.10 Provision for storm drainage.
No structure shall be constructed or enlarged unless it meets all requirements of Chapter 34 regarding storm drainage management. Such requirements shall apply to all accessory buildings or structures or uses serving such structures.

Sec. 90.11 Charges for consulting services established.

1. Except for applications by a single-family homeowner in the H30A and H30B districts, the Town Manager or designee, in the review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or environmental consultant or professional(s) employed by the Town as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the Town and such consultant. Charges made by the Town shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid on submission of a Town invoice.
2. Unless prohibited by law, the applicant shall reimburse the Town for the cost of such consultant or employed professional services upon submission of a copy of the invoice, within thirty (30) days of submission of a copy of the invoice. These fees are in addition to any and all other fees required by other law, rule or regulation of the Town Code.

Sec. 90.12 Escrow accounts.
At the time of submission of any application or thereafter, it is required that an escrow account be established, from which withdrawals shall be made to reimburse the Town for the cost of professional review services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the Town Manager, based on evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any Town invoice for such services as they are submitted to the Town. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement for such additional deposit, the Town may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding. A building permit, Certificate of Use and occupancy or other action shall not be issued unless all professional review fees charged in connection with the application have been reimbursed to the Town. Once all pertinent charges have been paid, the Town shall refund to the applicant any funds remaining on deposit.

Sec. 90.13 Collection of fees.
The Town Manager or designee shall collect all fees required pursuant to this Article.

Article II Administration and Enforcement

Division I Planning and Zoning Board



Sec. 90.14

Created.

There is created a Town Planning and Zoning Board.

Sec. 90.15

Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

1. Membership/quorum: The Planning and Zoning Board membership and quorum requirements for zoning matters and design review matters are as follows:
 - a. Zoning matters: The Planning and Zoning Board, when performing its zoning functions, shall consist of five (5) members. One of the board members must be a Florida licensed architect. Each Commissioner shall be entitled to one (1) Board appointment, not subject to majority approval. The Town Commissioner responsible for appointing a Florida licensed architect shall rotate through the Commission beginning with Seat 1. Three (3) members present at the Planning and Zoning Board meetings shall constitute a quorum.
 - b. All Board Matters: One Town Commissioner shall be a liaison, non-voting representative without a vote at all Planning and Zoning Board meetings.
2. Minimum Board Member Qualifications: All board members must have been a Town resident for a minimum period of one (1) year, except for the licensed architects, including the Florida licensed landscape architect, if applicable, who must have been a Town resident for a minimum period of six (6) months. The Florida licensed architects must have a minimum of five (5) years of practical experience in the field of landscape design. Notwithstanding this minimum number of required architects satisfying these qualifications, including residency requirements, the Town Commission at its discretion, may consider and appoint architectural members who have at least three (3) years minimum experience as a licensed architect within the State of Florida.
3. Officers: The Board shall elect one (1) of its members as chairman and one (1) of its members as vice-chairman, at its first regular meeting in April of each year. In the event of the resignation, removal, or inability of the chairman to serve, the vice-chairman shall succeed to the chairman position for the unexpired term; and the Board shall, thereupon, elect one (1) of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In the chairman's absence, the vice-chairman shall preside. The chairman shall submit all Board reports and recommendations to the Town Commission, by and through the chairman, vice-chairman or the Town Commission liaison member. The Town shall provide a secretary for the Board and the Town Clerk shall be custodian of all records, books and journals of the Board.
4. Board Member Term(s): The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the Board as provided in Paragraph (e) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed.



5. Vacancies: A vacancy shall exist: (1) on the date that any member ceases to possess the minimum required membership qualifications provided herein; or (2) when a board member has been absent from three (3) consecutive regularly convened board meetings or has been absent from five (5) regularly convened board meetings within a board year. Vacancies on the Board shall be filled by appointment for the unexpired term in the same manner as original appointments are made.
6. General regulations governing members: Board members shall be appointed in accordance with all applicable state, county and Town ethics laws, rules and regulations. Appointed members of the Board shall not, during their term, hold any other public office, paid position or serve on any other board under Town government, except as a temporary board member, or that of a voluntary fireman.
7. Expenditures; indebtedness: The Town Commission may authorize the expenditure by the Planning and Zoning Board of such funds as the Town Commission may deem necessary to perform the requirements of this chapter. The Town Commission may appropriate from the general fund as set up in the annual budget and such sums as it may from time to time authorize the Board to expend. The Board may not incur indebtedness without prior Commission approval.

Sec 90.16

Meetings: Board Year; Timeframe; Order of Presentation; Location.

1. Board Year: The Board year shall commence on the last Thursday of April in each year.
2. Meetings on Zoning Matters/Timeframe: Regular board meetings for zoning matters shall be held on the last Thursday of each month. The chair may call special meetings and may cancel or continue meetings as may be necessary.
3. Meetings on Design Review Matters/Timeframe: The Board shall meet as needed on design review matters. The chairman may call special meetings and may cancel or continue meetings as may be necessary.
4. Order of Presentation for Zoning Matters and Design Review Matters: In order to avoid unnecessary project costs and delays, the Board shall address and finalize each project zoning matter prior to initiating each project design review, to the extent applicable.
5. Location of All Board Meetings: All board meetings shall be held in the Town Hall or Community Center.

Sec 90.17

Powers and Duties.

1. Zoning Matters: The Planning and Zoning Board shall act as an advisory board to the Town Commission on zoning matters and design review matters. The Boards' powers and duties are as follows:
 - a. To perform its responsibilities as the Local Planning Agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - b. To review and make recommendations to the Town Manager and the Town Commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - c. To review and make recommendations to the Town Commission, on applications pertaining to site plans (if applicable) zoning changes,



special use permits, conditional use variances vested rights and any other zoning applications;

- d. To conduct such studies and investigations required under the Town Code and/or requested by the Town Commission; and
- e. The Planning and Zoning Board shall have such other duties pertaining to zoning matters as prescribed by law, this Section and the Town Code.

2. Design Review: The Planning and Zoning Board shall conduct a design review for all structures to be constructed and renovated within Town limits on the terms outlined below.

Sec 90.18

Design Review Board.

The Planning and Zoning Board, when performing its design review functions shall serve as the Design Review Board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the Commission and two (2) additional Florida licensed architects, one (1) of which may be a Florida licensed landscape architect. Both of these architects shall be appointed by a majority of the Town Commission. Four (4) members present at the Planning and Zoning Board design review meetings shall constitute a quorum and at least one (1) of the four (4) members shall be a licensed architect.

- 1. Purpose. This Section is intended to promote excellence in architectural and urban design; preservation of the Town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, the Design Review Board is hereby created to review and make advisory recommendations to the Planning and Zoning Board as to whether the design of new developments and/or improvements within the Town are consistent with and in conformance with the Design Guidelines set forth in the Town Code. The Design Guidelines are attached thereto as Exhibit A provided that the Town Commission may amend said Guidelines from time to time via Resolution. The Guidelines as amended, shall govern and be applied as fully set forth herein.
- 2. Design Review Procedure:
 - a. All applications for new developments or improvements that are subject to the Town's adopted Design Guidelines shall be referred to the Board for review and consideration.
 - b. The Board shall review each application whether for development of single family, multi-family, commercial or other districts for conformity with the Town's adopted Design Guidelines and recommend the application to the Planning and Zoning Board for approval, approval with conditions, or disapproval of the application. No applicant shall be required to appear before the Design Review Board more than twice per application.
 - c. Meetings held by the Board for review and recommendations of applications shall be arranged to permit participation by the person or group making the application or request and representatives of such person or group, if desired. Architectural plans and drawings of the building facades, lists of finish materials and other information necessary to provide adequate insight into the proposed development/improvement shall be provided to the Board by the person or group making the proposal or request.



3. Design Review application fees are set forth in the Town designated fee schedule.
4. All meetings of the Design Review Board shall be publicly noticed.

Sec. 90.19
90.19.1

Single-family and two-family development review process

Permits. No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a building permit from the Building Official. Such permit shall require conformity with the provisions of these regulations. When issued, such permit shall be valid for a period of one hundred eighty (180) days. However, the Town Manager or designee may grant an extension to the permit due to an uncontrollable act of nature of up to one hundred eighty (180) days.

90.19.2

The Building Official reviews all applications for building permits or certificates of occupancy for compliance with the provisions of the Zoning Code and all other applicable codes. The Building Official shall issue a building permit if the applicant demonstrates that the proposed development is in compliance with all applicable codes and in compliance with any and all development orders issued in connection with the project, and that all fees have been paid.

90.19.3

Permit Card. Upon approval of plan specifications and application for permit and payment of required fees, the Building Official shall issue a permit. The Building Official shall issue a permit card for each permit which shall bear the description of the property, identify the work being done, identify the owner and contactor and other pertinent information, and such card shall be maintained in a conspicuous place on the premises effected there by the hours of work and available on demand for examination.

90.19.4

Permit Requirements. The Florida Building Code as amended is hereby adopted as the regulation governing the construction of buildings and structures in the Town. All qualified applicants desiring a permit to be issued by the Building Official as required shall file an application in writing on a form provided by the Town. No development shall occur until and unless the Building Official has issued a building permit.

90.19.5

Design Guidelines – The Town has adopted Design Guidelines intended to provide direction and suggestions for all development. The purpose of the Design Review Board is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the Town’s adopted Guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.

90.19.6

Single-family and two-family development shall be reviewed by the Design Review Board.

90.19.7

The following shall be exempt from Design Review Board review, however, the design guidelines shall be followed:

1. Interior or rear yard fences
2. Interior renovations
3. Awnings
4. Screens
5. Driveways
6. Re-roofs



90.19.8

The following are required for submittal to the Design Review Board:

1. Application Form: Each application shall describe the land on which the proposed work is to be done by legal description, and address shall show the use or occupancy of the building or structure; shall be accompanied by plans and specifications as required; shall state the value of the proposed work; shall give such other information as may reasonably be required by the Town Manager or designee and the Florida Building Code; shall describe the proposed work and shall be attested to by the applicant and/or property owner.
2. Ownership affidavit
3. Survey less than one (1) year old. A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
4. Two (2) full-sized sets of complete design development drawings (24 X 36 sheets) signed and sealed by a Registered Architect. Eight (8) reduced sized (11 X 17) copies of the plans.
5. Surrounding Context:
Provide recent photographs of the subject property and of all abutting, diagonal and fronting properties, as visible from the street.
6. Site Plan (Minimum scale of 1" = 20'):
 - a. Show entire parcel(s) with dimensions and lot size in square feet
 - b. Show existing and proposed buildings with square footage
 - c. Show any buildings to be removed
 - d. Show all setbacks
 - e. Show dimensions and locations of all existing and proposed right-of-ways, easements and street frontage, including sidewalks, curb and gutter and planting strips
 - f. Show all existing and proposed site improvements, including, but not limited to, all utilities, retaining walls, fences, decks and patios, driveways and sidewalks, signs, parking areas, and erosion control features
 - g. Show the location of all existing and proposed trees, vegetation, palms and note tree species
 - h. Show locations and dimensions of parking spaces and lot layout
 - i. Show driveway entrance width and setbacks from property line
7. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - a. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s). They should include, at a minimum:
 - b. All exterior materials, colors and finishes, keyed to samples provided
 - c. Roof slopes and materials and color
 - d. Detail of doors, windows, garage doors
 - e. Lighting locations and details
 - f. Dimensions of structure(s) – height, width, and length



- g. Deck, railing, stairs details including materials, colors, finishes, and decorative details
- h. Exposed foundation treatment
- i. Gutters and eaves
- j. Abutting structure heights

90.19.9 Effective period of Design Review Board approval. An approval from the Design Review Board shall be effective until the development is completed except that if, after twenty-four (24) months from the date of the approval by the Design Review Board a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

90.20 **Development Review Requirements for submittals other than single-family and two-family**

1. Generally. Review and approval of a site plan by staff reviewing agencies, the Design Review Board and the Planning and Zoning Board is required prior to any development of land in the Town.
2. Process. Submit plans (sets to be determined by Town staff as appropriately needed), which are distributed to the staff members of the Development Review Group (DRG).
 - a. The DRG member shall review the site plan and prepare comments. The comments shall be forwarded to the Town Manager or designee. The comments shall be addressed by the applicant, if applicable. The Town Manager or designee shall hold a Development Review Group meeting with appropriate Town staff and the applicant to discuss the comments.
 - b. After the revisions and upon review of the final site plan by the DRG members, the site plan will be scheduled for the next available Town Design Review Board and Planning and Zoning Board meetings. If possible, the Planning and Zoning Board meeting and the Design Review Board meeting should be held on the same date. The materials required under 90.19.8 should not be duplicated for both the Planning and Zoning Board meeting and Design Review Board meeting. They shall be considered one (1) submittal package.



3. Submittal requirements for DRG, Planning and Zoning and Design Review Board are provided below.
 - a. Application. An application is required for site plan approval. This application shall include the following where applicable:
 - b. Site Plan. A site plan, the overall size of which shall be 24" x 36", drawn at a scale not less than 1" = 20' and shall include the following:
 - i. A legal description, including the section, township, and range or subdivision lot and block.
 - ii. Site boundaries clearly identified, and ties-to-section corners.
 - iii. Proposed uses.
 - iv. Location and height of all structures and total floor area with dimensions to lot lines, and designations of use.
 - v. Building separations.
 - vi. Vehicular circulation system for cars, bicycles, and other required vehicle types, with indication of connection to public rights-of-way. Location of all parking and loading areas.
 - vii. All adjacent rights-of-way, with indication of ultimate right-of-way line, center line, width, paving width, existing median cuts and intersections, street light poles, and other utility facilities and easements. Location of all cross streets and driveways within three hundred fifty (350) feet of property limits.
 - viii. Pedestrian circulation system.
 - ix. Provider of water and wastewater facilities.
 - x. Existing and proposed fire hydrant locations.
 - xi. The following computations:
 - Gross acreage.
 - Net acreage. Gross acreage covered by the property excluding road easements and rights-of-way, if any.
 - Number of dwelling units and density for residential uses only.
 - Square footage of ground covered by buildings or structures and designation of use.
 - Required number of parking spaces.
 - Number of parking spaces provided.
 - Pervious, impervious and paved surface, in square footage and percentage.
 - xii. Site Plan location sketch, including section, township, and range, showing adjacent property owners.
 - xiii. Geometry of all paved areas including centerlines, dimensions, radii, and elevations.
 - xiv. Location of trash and garbage disposal system and provisions for accessibility to garbage trucks.
 - xv. Loading areas and provisions for accessibility to vehicles of the required type.
 - xvi. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type.
 - xvii. Number of sets required shall be determined by Town Staff.
 - xviii. Other such information as required by the Town.



- c. Survey. A survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). The survey shall be prepared by a Florida registered land surveyor, certified as to meeting the requirements of the applicable Section of the Florida Administrative Code, reflecting existing natural features, such as topography, vegetation, existing paving, existing structures, and water bodies.
- d. Landscape Plan and Irrigation Plan. Landscape plan and irrigation plan with landscape calculations, existing tree survey with indication of existing native vegetation that will be preserved, as required herein.
- e. Lighting Plan. Lighting plan showing photometric measurements, lighting details and spillage onto adjacent properties and rights-of-way.
- f. Sign Plan for all signs which will be on site.
- g. Pavement markings and traffic signing plan.
- h. Schematic water and sewer plan. Plans shall include the location and size of all mains and lift stations (Note: Final engineering plans must be submitted and approved).
- i. Paving and drainage plans. Plans shall show the location of all drainage features and retention areas, if any.
- j. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - i. Show separate elevations of all sides of existing and proposed buildings with all dimensions, including height.
 - ii. Label exterior materials, color, texture and trim, roof material, roof color and pitch, windows, doors, screens, skylights and all exposed mechanical equipment and screening
 - iii. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s) and structure(s), which should include at a minimum:
 - All exterior materials, colors and finishes, keyed to samples provided
 - Roof slopes and materials including specifications and color
 - Detail of doors, windows, garage doors
 - Dimensions of structure(s) – height, width, and length
 - Deck, railing, stairs details including materials, colors, finishes, and decorative details
 - Exposed foundation treatment
 - Gutters and eaves
- k. Signs
 - i. Show dimensioned locations and mounting details of signs on building elevations and locations of signs on site plan
 - ii. Note colors, materials, lighting and dimensions
 - iii. Show dimensions and square footages (proposed and existing)
 - iv. Identify materials and colors – background, trim/border, and copy
 - v. Show fonts and graphics



90.20.1 Site Plan amendments. If an applicant's development plans change after previously receiving final site plan approval, the applicant may file an application for revised final site plan approval with the Town Manager or designee. However, no application will be considered for property that is the subject of pending Code enforcement action by the Town or that has an unpaid Code enforcement lien.

1. Site Plan Amendment Criteria.
 - a. Amendments may not be contrary to a condition of the original site plan approval or any previously approved amendment (except that conditions that were imposed for a particular use may be lifted if that use is deleted from the site plan).
 - b. Amendments may not change the character or location of any structure on the property that is not part of the main building.
 - c. Amendments may not alter the location of any points of ingress or egress from the public right-of-way, nor alter any vehicular or pedestrian flows.

90.20.2 Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require site plan approval, however, may require Design Review Board approval:

1. The deposit and contouring of fill on land.
2. Construction of a single-family home on an existing single-family lot.
3. Construction of a single duplex on an existing single lot.

90.20.3 Effective period of final site plan approval. An approved final site plan shall be effective until the development is completed except that if, after twenty-four (24) months from the date the site plan is approved by the Planning and Zoning Board a building permit for a principal building has not been issued and remains in effect, the site plan shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued. In those cases where a development includes more than one (1) principal building and it is contemplated that the development shown on a site plan will not be completed with a building permit for a principal building continuously in effect, approval by the Planning and Zoning Board of a phasing schedule must be obtained as part of the overall site plan approval. Amendments to the original site plan shall not extend this time frame unless an extension is expressly granted by the Planning and Zoning Board as a part of the approval of the amendment.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.



- Sec. 90.21 Certificate of occupancy**
1. No vacant land shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.
 2. No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied, or changed use until a Certificate of Occupancy and compliance shall have been issued by the Building Official, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
 3. Certificates of occupancy and compliance shall be applied for within ten (10) days after the erection or structural alteration of such have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Official.
- Sec. 90.22 Changes and amendments**
- The Town Commission may, from time-to-time, amend, supplement, or change by ordinance, the boundaries of the districts or the regulations herein established.
- 90.22.1 Reconsideration of district boundary changes. When a proposed change in district boundaries has been acted upon by the Town Commission and disapproved or failed of passage, such proposed change, in the same or substantial similar form, shall not be reconsidered by the Town for a period of at least one (1) year following the date of such action.
- 90.22.2 Withdrawal of a petition. Any petition for amendment, supplement, or change may be withdrawn by a request in writing from the petitioner at any time before a decision of the Town Commission, but if withdrawn after advertisement for a public hearing or posting of the property, the same or a substantially similar petition covering the same property shall not be resubmitted, except by the Town Manager or a member of the Town Commission, sooner than one (1) year after date established for the prior hearing. Filing fees shall not be refunded upon withdrawal.
- State law references:** Zoning amendments, F.S. §§ 163.3194, 166.041.
- Sec. 90.23 Conditional uses**
- 90.23.1 Purpose. The purpose of this Section is to provide a process which is designed to determine if certain uses, hereafter referred to as conditional uses, should be permitted. Special review of conditional uses is required because such uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the community, but because of the nature of the use and possible impact on neighboring properties, require the exercise of planning judgment on location and site plan.
- 90.23.2 Conditional uses enumerated. The following uses may be approved by the Town Commission as conditional uses in any district in which they are specifically allowed, as indicated within the provisions for individual zoning districts. Approval of such conditional use(s) in accordance with the procedures and standards of this Section shall only be granted where it has been clearly shown that the public health, safety, morals, and general welfare will not be adversely affected; that adequate off-street parking facilities, in accordance with this chapter, will be provided; and that necessary safeguards will be provided for the protection of surrounding property:
1. Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.



2. Off-street parking lots and garages.
 3. Public and governmental buildings.
 4. Public utilities or public service uses, buildings, structures and appurtenances thereto.
 5. A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.
- 90.23.3 Site plan required. Each application for approval for a conditional use shall be accompanied by a site plan. Such site plan shall be prepared in accordance with the provisions of Section 90.20(3)(b). In addition, each application shall be accompanied by a letter and survey indicating compliance with all of the provisions of Section 90.20(3)(b), and any additional information as may be required to permit a determination of the exact nature of the proposed use and its effect on surrounding properties, the adjacent neighborhood, and its consistency with the Town's adopted Comprehensive Plan.
- 90.23.4 Procedures; conditional uses.
- Application and fee shall be submitted to the Town for a Conditional Use review and are subject to the requirements of Section 90.23. Applications for approval of a conditional use shall be heard by the Planning and Zoning Board for a recommendation to the Town Commission. The Planning and Zoning Board's report may contain recommendations regarding conditions which should be imposed by the Town Commission in approving the conditional use. The Town Commission may establish these and/or additional conditions for an approval by a simple majority vote.
- 90.23.5 The approval of a Conditional Use shall be void if the applicant does not obtain a building permit or other permit required to implement the Conditional Use within twenty-four (24) months after the granting of the Conditional Use. An applicant who has obtained approval of a Conditional Use may request an extension of this time period within the original approval period. The Town Commission may grant one or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.
- Sec. 90.24 No-fee operational licensing of not-for-profit places of public assembly**
A place of public assembly operated by a not-for-profit organization qualified under Section 501(c)(3) of the Internal Revenue Code and registered pursuant to Chapter 496, Florida Statutes, shall not be occupied until it obtains an operational license from the Town.
- 90.24.1 The operator of a qualifying place of public assembly shall obtain a form and submit an application for an operational license by contacting the Department of Building and Zoning. No fee shall be charged by the Department.
- 90.24.2 The Town Manager or designee shall notify the holder of any operational license, in writing, of the Town's intent to revoke an operational license if he or she determines that the following circumstances exist:
1. The Town has reasonable grounds to believe that the premises are being used in a manner that is inconsistent with, or contrary to, the provisions of the Zoning Code or any other applicable code or statute.



2. In the event of a conviction of any director of the organization holding the operational license by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the operation.
3. It has been ascertained that the holder of the operational license falsified any information on its application.
4. The holder of the operational license, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal operating hours for the purpose of investigating a complaint which has been filed against the operation.

90.24.3 The notice of intended revocation of an operational license shall state the following:

THE HOLDER OF THE OPERATIONAL LICENSE SHALL HAVE TEN (10) DAYS FROM THE DATE OF RECEIPT OF THIS NOTIFICATION EITHER TO BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A HEARING, IN WRITING, BEFORE THE TOWN COMMISSION. IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE TOWN OF SURFSIDE WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE HOLDER, THE OPERATIONAL LICENSE SHALL BE CONSIDERED REVOKED.

90.24.4 If the holder of the operational license requests a hearing before the Town Commission, the operational license shall remain in effect during the pendency of the action before the Town Commission.

90.24.5 The original of the operational license shall be posted upon the premises at all times.

Sec. 90.25 Home-based and common-area based assembly uses

90.25.1 Applicability. The standards set forth in this subsection shall apply to any proposed or existing home-based or common-area based assembly use located in the following residential zoning districts: H30A, H30B, H30C, H40 and H120.

90.25.2 Home-based and common-area based assemblies are permitted, whether for social, religious, or other reasons, as an incidental accessory use to the principal residential use.

90.25.3 Frequency of home-based and common-area based assembly uses.
Assemblies that occur four (4) or more times per month for two (2) consecutive months will be deemed to be beyond the scope of the accessory use and shall not be permitted.

- 90.25.4 Parking standard.
1. Home-based assembly uses. A home-based assembly use which results in an additional eleven (11) vehicles being parked near the dwelling unit at each assembly will be deemed to be beyond the scope of the accessory use and shall not be permitted. Vehicles parked legally on the site of the home-based assembly, or upon another parcel pursuant to a lawful agreement with the owner of such parcel, shall not be counted toward the eleven (11) vehicles.
 2. Common-area based assembly use. A common area-based assembly use which results in an additional six (6) vehicles being parked near the common-area based assembly use will be deemed to be beyond the scope of the accessory use and shall not be permitted. Additionally, the



parking demand created by such assemblies shall not exceed the supply of parking spaces provided within the shared guest or visitor parking areas allocated to common-area functions.

Sec. 90.26

Home Offices

1. Home offices are permitted in residential areas of the Town provided that:
 - a. Users of the home office are residents of the premises;
 - b. The use of the dwelling unit or residence for a home office is clearly incidental and secondary to its use for residential purposes. No outside display, storage or use of the land is permitted.
 - c. There is no change in the outside appearance of the building or premises as a result of the home office;
 - d. No equipment is used or stored on the premises that creates noise, vibration, glare, fumes, odors or electrical interference, detectable to the normal senses outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio, television set or other electronic device off the premises or causes fluctuation in line voltage or other similar nuisance;
 - e. No trash, sewage, solid waste or other waste than normal household trash and recyclables is generated. No commercial dumpsters or trash service shall be allowed;
 - f. No retail or wholesale sales on the premises shall be permitted except for telephone, mail, delivery service, internet order sales or similar electronic sales;
 - g. No traffic is generated by such home office in greater volume than would normally be expected in the neighborhood for residential purposes. No customers, clients, business associates, sales persons, invitees, assistants, outside employees, independent representatives, or the like shall visit the dwelling unit or residence for a business purpose;
2. A home office shall not be construed to include among other uses, personal services, such as the practice of medicine, chiropractic medicine, dentistry, massage, cosmetology, barbershops, beauty parlors, tea rooms, food processing for sale, kennels, animal grooming, radio and television repair, furniture refinishing or building, cabinet making, boat building, marine charter or towing service, auto servicing or rebuilding and repair for others, metal fabrication or cutting employing welding or cutting torches, or any other occupation requiring state mandated inspection of the premises;
3. No more than one (1) vehicle related to the home office shall be permitted upon the premises. Such vehicle must be twenty (20) feet or less in overall length and must be parked off any public right-of-way. All exterior storage of cargo, equipment or other materials on such vehicle shall be shielded from view at all times when such vehicle is located on a residential lot;
4. The home office activities shall be compatible with the residential use of the property and surrounding residential units;
5. The home office activities shall not involve any illegal activities;



6. The home office activities shall not result in any increase in demand on Town services as compared to the average typical residence of the same size.
7. No signs, lights, lawn markers, postings, advertising, etc. which are not compatible with the residential appearance and use of the property shall be located on or about the residence or unit.
 - a. The Town Manager or designee shall determine whether the home office meets the established criteria as set forth in Section 1 above. The determination may be appealed to the Planning and Zoning Board whose ruling shall be final and may be appealed to the Circuit Court.
 - b. A local business tax receipt must be obtained from the Town for home offices.
 - c. Nothing contained herein shall be deemed to authorize, legalize or otherwise permit a home based business that is otherwise prohibited by a legally enforceable covenant, association document or other instrument or restriction on such use pertaining to a residential unit.

Sec. 90.27

Certificates of Use

1. It is hereby deemed unlawful for any person to open or operate any business and/or occupy any structure within the Town limits for the privilege of engaging in any business prior to obtaining the required Certificate of Use.
2. No structure used for the purpose of exercising the privilege of doing business within the Town limits shall be used or occupied or any existing use enlarged, or any new use made of any land, body of water, or structure, without first obtaining a Certificate of Use therefore from the Town Manager or designee as may be required herein.
3. The Certificate of Use shall be renewable annually for all existing, new, and future business use classifications on any land, body of water, and or in any structure including the individual units within said structure within the Town limits.
4. A separate Certificate of Use shall be obtained for each place of business and for each corporation and/or legal entity within each place of business.
5. It shall be the duty of every person owning, operating, or purchasing any business within the Town limits to comply with the requirements of this division prior to opening any business and/or occupying structure.

90.27.1

Term of Certificate of Use and transfer.

1. No Certificate of Use shall be issued for more than one (1) year, and all certificates shall expire on September 30 of each year.
2. Certificates of Use may be issued for a fractional portion of a year, but no Certificate of Use shall be issued for a fractional portion of a month.
3. When there is a change of use, business, business ownership or business name the application for Certificate of Use shall be treated as new application.

90.27.2

Due date for payment of Certificate of Use fee.

1. Certificates shall be available for issuance by the Town, commencing on August 1 of each year. Both the renewal and renewal fee shall be due on October 1 of each year. If October 1 falls on a weekend or holiday, the



fee shall be due and payable on or before the first working day following October 1. Those certificates not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten (10) percent) for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid; provided, that the total delinquency penalty shall not exceed twenty-five (25) percent of the fee due.

2. Any person exercising the privilege of engaging in or managing any business without first obtaining a Certificate of Use, if required under this division, shall be subject to a penalty of twenty-five (25) percent of the fee determined to be due, in addition to any other penalty provided by law or ordinance.

90.27.3

Fees.

Fees to be charged for the purpose of administering this division are hereby imposed as follows:

1. The Town Manager or designee shall collect fee. No origination fee shall be charged for a Certificate of Use to any business within the Town limits that has a current and appropriate Certificate of Use from Miami-Dade County or the Town, but the annual renewal fee shall be charged accordingly.
2. The Town Manager or designee shall collect and annual renewal fee for the renewal of existing Certificates of Use as issued herein.
3. An application fee shall be assessed for the processing of a new application for Certificate of Use.
4. Inspections of the applicant's business premises shall be scheduled at the convenience of both the compliance officer/inspector and the business owner. If the business owner fails to be present at the time of the scheduled inspection or if the compliance officer/inspector is denied and/or unable to gain access to the business premises to conduct the requisite inspection, the business owner may be subject to being charged a reinspection fee per reinspection at the discretion of the Town Manager or designee. Additionally, after three (3) such attempts and/or denials of access to the premises the Town Manager or designee may pursue the revocation of any existing certificate(s) of use issued to the subject premises.

90.27.4

Application procedures.

1. Procedures for issuance. No Certificate of Use shall be issued or granted to any person or location to engage in any business type use named, identified or encompassed by this division unless:
 - a. An application is filed with the Town Manager or designee on forms provided for that purpose, disclosing the following:
 - (i) The applicant's name and address.
 - (ii) The name of the business for which a certificate is sought.
 - (iii) The name and address of the owner and operator of the business and if a corporation, the names and addresses of each of its corporate officers and its resident or registered agent.
 - (iv) The type or classification of the business and the relationship of the applicant to the business.
 - (v) The location in the Town where the business will be operated.



- (vi) The date of birth and driver's license number of the owner/operator and any applicable federal employer identification numbers.
 - (vii) If the applicant is a corporation or partnership, the full name of the corporation or partnership and the state of incorporation. Applicant must submit a copy of the Articles of incorporation.
 - (viii) If the business is a corporation and is to be conducted under another name, the business name and county of registration under F.S. § 865.09. Applicant must submit a copy of the fictitious name registration.
 - b. There has been a site inspection of the applicant's business premises, except home based businesses.
 - c. The Town Manager or designee, as appropriate, has approved and assigned the zoning use classification.
 - d. The Town Manager or designee has verified compliance with all applicable laws and regulations and has collected all applicable fees due to the Town.
2. Legality of use. In the event there is a question as to the legality of a use, the Town Manager or designee, as appropriate, may require affidavits and such other information s/he may deem appropriate or necessary to establish the legality of the use, before a Certificate of Use will be issued.
3. Emergency locator. The application shall contain a section designated "emergency locator." The applicant shall fill out as part of the Certificate of Use application the names, business and residence addresses and residence and business phone numbers of the owner, and the manager or other persons to be notified in case of fire or other emergencies. Any changes in such information during the period for which the Certificate of Use is issued shall be made to the Department, in writing.
4. Certificate number. All applications and certificates shall be assigned a number.
5. Statement of accuracy. The application form shall contain the following language:

"THE UNDERSIGNED HAS CAREFULLY REVIEWED THIS APPLICATION AND ALL INFORMATION CONTAINED HEREIN HAS BEEN FREELY AND VOLUNTARILY PROVIDED. ALL FACTS, FIGURES, STATEMENTS CONTAINED IN THIS APPLICATION ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE APPLICANT ALSO ACKNOWLEDGES AND UNDERSTANDS THAT THE ISSUANCE OF A TOWN CERTIFICATE OF USE IS CONTINGENT UPON A ZONING COMPLIANCE INSPECTION AND IN CONJUNCTION WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AND TOWN BUSINESS TAX RECEIPT. FAILURE TO COMPLY WITH THE TOWN'S ORDINANCES MAY RESULT IN REVOCATION OF SAID CERTIFICATE OF USE."
6. Name; signature. The applicant shall print and sign his name to the application immediately after the statement required in Subsection 5 above. In the case of a corporation, an officer shall be required to sign the application in his individual capacity and not solely as a corporate agent.
7. Obtaining a Certificate of Occupancy prior to issuance of Certificate of Use. All businesses required to obtain a Certificate of Occupancy from



the Town Manager or designee pursuant to Section 307 of the Florida Building Code, must do so prior to the issuance of a Certificate of Use. Any Certificate of Occupancy issued by Miami-Dade County shall be honored by the Town, provided that the occupancy for which the certificate was issued remains the same.

8. State license, certification, registration required. All businesses and professions regulated by the state must submit a copy of their current state license, certification, and/or registration prior to the issuance of their Certificate of Use thereafter each year at time of renewal. Only the state license itself, or in the case of the state hotel and restaurant Commission, the receipt issued by the state, shall constitute proof of current state license.
9. Grease trap registration required. All restaurants are required to obtain a grease trap permit from the Miami-Dade County Department of Environmental Resources Management and shall provide a copy of said permit to the Town Manager or designee prior to the issuance of any Certificate of Use.
10. Fire inspection required. All businesses that require an annual inspection from the Miami-Dade County Fire Department shall submit a copy of the county fire inspection report or any such form indicating that said business was inspected and passed the requisite inspection; prior to the issuance of any Certificate of Use.

90.27.5

Grounds for denial.

1. The Town Manager or designee, as appropriate, shall have the authority to deny an application for a Certificate of Use on the following grounds:
 - a. That the applicant has failed to disclose or has misrepresented a material fact or any information required by this division in the application.
 - b. That the applicant desiring to engage in the business, as described in the application, has selected a proposed site or type of business activity, which does not comply with the Town's Zoning Ordinance or other laws of the Town.
 - c. That the applicant has failed to obtain a Certificate of Occupancy as required by Section 307 of the Florida Building Code.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, Town or county law, with respect to the specific zoning use, and the applicant has violated such specific provisions.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation within thirty (30) days after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division; code compliance lien; special assessment lien and/or any other debt or obligation due to the Town under state or local law.



- i. The applicant has been denied a Town business tax receipt, or the applicant's business tax receipt has been revoked within the last twelve (12) months.
 - j. The applicant fails to permit inspection by the Town as required and prescribed herein.
2. Any person, whose application has been denied as provided herein shall have the right to apply for a variance and/or public hearing. Such application shall be governed in accordance with any Town or local ordinance or law.

90.27.6

Renewal of Certificate of Use.

1. Renewed certificates will not be issued until all delinquent payments for any fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law has been paid in full.
2. The Town shall endeavor to notify all certificate holders that their Certificates of Use are due for renewal. However, if such certificate holder does not receive a renewal notification, it is responsibility to renew the Certificate of Use prior to October 1, to avoid delinquent charges.
3. Any current Certificate of Use may, at the discretion of the Department, be renewed for each new certificate year without the need for a new application, provided the applicant signs the following certification:
"I THE UNDERSIGNED HEREBY CERTIFIES THAT THE CERTIFICATE OF USE FOR WHICH I AM NOW APPLYING IS ONE FOR A RENEWAL OF A CURRENT CERTIFICATE OF USE WHICH IS NOW IN FULL FORCE AND EFFECT. I HAVE NOT CHANGED THE AUTHORIZED USE OF THE PREMISES NOR HAVE I MADE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES AND DO NOT PLAN TO MAKE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES."
4. Any renewal application in which the applicant changes the authorized use of the premises or makes or proposes any physical or structural changes in the premises shall be reprocessed as if the certificate were a new application.

90.27.7

Display of certificate.

Each Certificate of Use issued by the Town shall be displayed conspicuously at the place of business and in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the Town. Failure to display the certificate in the manner provided for in this Section shall subject the owner/operator to applicable code compliance procedures and/or any other remedies as permitted by law.

90.27.8

Duties of Building Department.

1. The Building Department, among other duties, shall collect all fees and shall issue certificates in the name of the Town to all persons or businesses qualified under the provisions of this division and shall:
 - a. Verify that the applicant is in compliance with all applicable laws and regulations of the Town as prescribed herein.
 - b. Investigate and determine the eligibility of any applicant for a certificate and/or the current status of any certificate as prescribed in this division.
 - c. Accept applications for Certificates of Use and review for completeness.



- d. Inspect the applicants' premises for compliance with the applicable building codes identifying any necessary building permits and/or any building code violations.
 - e. Coordinate with Miami-Dade County Fire Department and the Department of Environmental Resources Management to obtain copies of respective approvals as necessary.
2. The Town Manager or designee, as appropriate, shall among other duties:
- a. Approve and assign the zoning use classification for each business premises.
 - b. Examine the books and records of any applicant or certificate holder when reasonably necessary for the administration and compliance of this division.
 - c. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any certification, at the applicant's request, state in writing the reasons therefore and deliver them to the applicant.
- 90.27.9 Examination of records.
It shall be unlawful for any person and/or business to refuse to allow the Department to investigate and examine relevant records for the purpose of determining whether such person and/or business has a certificate and/or whether such person and/or business shall be issued a certificate.
- 90.27.10 Approval of business location required.
No Certificate of Use shall be issued for any business until the zoning use classification of the business premises is first approved by the Town Manager or designee, as appropriate; and the Department verifies that the applicant is in compliance with all applicable laws, and other regulatory ordinances of the Town.
- 90.27.11 Lost or stolen certificates; issuance of duplicate.
A duplicate Certificate of Use shall be issued by the Town Manager or designee, as appropriate, to replace any certificate or special permit previously issued which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the certificate holder upon the filing by the certificate holder of an affidavit sworn to before a notary public of this State attesting to that fact. A duplication fee shall be charged for each duplicate certificate.
- 90.27.12 Obtaining certificate by false statement.
Any Certificate of Use obtained under the provisions of this division upon a misrepresentation of a material fact shall be deemed null and void and the certificate holder who was thereafter engaged in any business under such certificate shall be subject to compliance action for doing same without a Certificate of Use with the same effect and degree as though no such certificate had ever been issued.
- 90.27.13 Illegal activity not approved by certificate.
The issuance or possession of a valid Certificate of Use obtained under the provisions of this division does not constitute an approval of any offense, illegal activity or act prohibited by law.
- 90.27.14 Revocation of Certificate of Use.
The Department, in consultation with the Town Manager or designee, as appropriate, is granted the authority and charged with the duty to revoke, refuse to renew or suspend any Certificate of Use as follows:



1. A Certificate of Use issued under this division may be revoked, suspended, or renewal of said certificate refused on the following grounds.
 - a. The certificate holder has failed to disclose or has misrepresented a material fact or information required by this division in the application. If an intentional misrepresentation of a material fact is discovered.
 - b. The certificate holder does not engage in the business as described in the application or has changed the use without authorization.
 - c. The certificate holder allows the premises to be utilized for solicitation for prostitution, pandering, lewd and lascivious behavior, sale, distribution or display of obscene materials or conduct; sale or possession of any controlled substances or narcotics.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, town or county law and the applicant has violated such specific provisions including but not limited to violations of federal, state, or county criminal statutes, and/or violations of county and/or Town zoning, business tax receipts, and related ordinances.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law.
2. Procedure.
 - a. The Department may revoke, refuse to renew or suspend any Certificate of Use on any grounds set forth herein. The Department shall issue a written notice of intent to revoke and/or suspend that shall set forth the grounds upon which the notice is issued, the corrections necessary for compliance, and the certificate holder's right to request an administrative hearing in front of the Town Special Master, and that said appeal must be taken within thirty (30) calendar days of the service of said notice.
 - b. The thirty (30) calendar days shall be considered a warning period during which the noticed certificate holder may come into compliance as required herein. If compliance is achieved within said warning period the Department shall void the revocation and the certificate holder shall dismiss any pending appeal.
 - c. The notice shall be sent certified mail, return receipt requested, to the address provided in the application or the last known address of the applicant. Alternate service may be made by delivery of the notice of hearing to the place of business and/or posting such notice thereon. If there is no appeal taken by the certificate holder as provided herein, the Certificate of Use shall be automatically revoked. Upon revocation of the Certificate of Use, the certificate holder shall immediately cease doing business in any location listed therein.



- d. The request for hearing before the Special Master to appeal the revocation notice shall stay any compliance action and the Certificate of Use shall remain in effect unless, within the sole discretion of the Department, it is determined that the grounds for denial represent an immediate threat to the health, safety, and/or welfare of the public.
3. Scheduling and conduct of hearing.
 - a. At any time prior to the expiration of thirty (30) days following the service of the notice of intent to revoke and/or suspend the Certificate of Use, the certificate holder may request in writing that the Department schedule a hearing on the basis that he/she wishes to appeal the pending revocation notice. The office of the Town Clerk, in consultation with the Town Special Master, shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as practical, provided that the hearing date is not more than forty-five (45) calendar days from the date of the Town's receipt of the timely request for appeal. The certificate holder shall receive a minimum of fifteen (15) days' written notice of the hearing which shall set forth the time and place for the administrative hearing.
 - b. The hearing shall be conducted by the Special Master.
 - c. The proceedings at the hearing shall be recorded by the Town Clerk.
 - d. The hearing shall be conducted in an informal manner and the formal rules relating to evidence and witnesses shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the Special Master finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
 - e. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witnesses regardless of which party first called that witness to testify; and to offer rebuttal to the evidence.
 - f. Requests for continuances will not be considered if not received by the Special Master at least seven (7) calendar days prior to the date set for the hearing.
 - g. The proceedings at the hearing shall be conducted as follows:
 - (i) The Department shall present testimony in evidence.
 - (ii) The certificate holder shall then present testimony in evidence.
 - (iii) Each side shall have the right of cross-examination at the conclusion of the other's presentation.
 - (iv) The Special Master shall have the right of inquiry.
 - (v) Each party shall have the right to present rebuttal evidence.
 - (vi) Upon completion of the presentations, the hearing shall be closed, and the Special Master shall analyze the testimony and evidence of record and shall render a decision either affirming or denying the determination of the Department.
 - h. The decision of the Special Master shall be reduced to writing and copies thereof shall be furnished to the Department and certificate holder within five (5) business days of the hearing.
 - (i) This decision may be appealed by writ of certiorari within thirty (30) days of such written order to the Circuit Court.



- (ii) Upon the time period for such appeal having expired, and no such appeal having been filed, or upon the expiration of such appeal procedures resulting in the affirmation of the decision of the Special Master, the certificate shall stand automatically and immediately revoked and no new certificate shall be issued. Upon revocation, the certificate holder shall immediately cease doing business in any location listed therein.
- i. No application for a Certificate of Use shall be considered by the Town until one (1) year after the date of any revocation or non-renewal.

90.27.15

Right of inspection.

1. Any person applying for or obtaining a Certificate of Use shall be subject to an annual inspection of the place of business.
2. For the purpose of enforcing the provisions of this division, code officials, inspectors, and compliance officers shall have the right of inspection provided that said inspection shall be reasonable and scheduled at the convenience of the applicant or certificate holder and the compliance officer or inspector. The office of the Town Attorney is hereby authorized to seek inspection warrants as necessary.
3. Notwithstanding the foregoing, a home based business need only be inspected if a complaint regarding the operation of the business is received and subsequently observed by the Town Manager or designee.

90.27.16

Penalties for offenses.

Any person who violates any section of this division shall be subject to the issuance of a civil penalty to be issued in accordance with the code compliance code.

Division II

Nonconforming uses, lots and structures

Sec 90.28

Nonconforming Uses and Structures – Purpose and Scope

The purpose of this rule is to regulate and limit the development and continued existence of unlawful uses, structures and lawful uses established prior to the effective date of this Zoning Code which does not now conform to the requirement of this Code.

Revisions of this Section are designed to curtail substantial investment and non-conformity and to bring about the eventual improvement or elimination in order to the preserve the integrity of the restorations in a character of the Town. Any non-conforming structure or lot which lawfully existed on the date of the adoption of this Zoning Code and which remains non-conforming and any lot which has become non-conforming as the result of the adoption of this Zoning Code or any subsequent amendment thereto may be continued only in accordance with the terms of this Article.

Moving a non-conforming structure. A non-conforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements whether the district to which the structure is moved. The moving of the structure shall also comply with the requirements of other applicable Town ordinance.

Sec 90.29

Nonconforming lots

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the adoption of the ordinance from which this division was derived, or any amendment thereto which requires a larger minimum lot size than currently exists, the owner may



use such lot for improvements that conform in all other respects to applicable zoning regulations. Any existing building which may be located on such a nonconforming lot may be altered or enlarged, provided such alteration or enlargement meets all other applicable requirements of these zoning regulations, including the substantial improvements provisions.

Sec 90.30

Nonconforming use of buildings

Except as otherwise provided herein, the lawful use of a building existing at the effective date of the ordinance from which this division was derived may be continued, although such use does not conform to the provisions hereof. If no structural alterations are made other than substantial improvements as defined by this Code, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more compliant classification. Whenever a nonconforming use has been changed to a more compliant use or to a conforming use, such use shall not thereafter be changed to a less compliant use. The nonconforming use of a building may be hereafter extended throughout those parts of a building which were lawfully and manifestly arranged or designed for such use at the time of passage of the ordinance from which this division was derived.

Sec 90.31

Discontinuance of nonconforming uses

No building or land, or portion thereof, used in whole or in part as a nonconforming use in any zoning district, which remains idle or unused for a continual period of six (6) months, or for eighteen (18) months during any three (3) year period, irrespective of whether or not existing equipment or fixtures which contribute to the nonconformity are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

90.31.1

Discontinuance or Destruction of a nonconforming use or structure.

1. Nonconforming use of land. If for any reason a nonconforming use of land ceases or is discontinued for a period of more than six (6) months, or for eighteen (18) months during any three (3) year period the land shall not thereafter be used for a nonconforming use.
2. Nonconforming use of building or structure. If for any reason the nonconforming use of a building or structure ceases or is discontinued for a period of six (6) months or more, the building or structure shall not thereafter be used for a nonconforming use.
3. Reconstruction after catastrophe. If any nonconforming building or structure is destroyed or damaged by a fire, flood, windstorm, natural disaster or similar event, and the cost of restoring the structure to its condition which existed immediately prior to the event does not exceed fifty (50) percent of the cost of replacing the entire structure, then the structure may be restored to its original nonconforming condition. If any nonconforming building or structure in which there is a nonconforming use, is damaged by fire, flood, windstorm, natural disaster or similar event and the cost of restoring the structure to its original condition will exceed fifty-one (51) percent of the replacement cost of the same building or structure, then the structure shall not be restored.
4. Ordinary repairs and maintenance may be made to a non-conforming structure provided that such repairs or maintenance does not exceed fifty (50) percent of the value as determined by the building official.

Ordinary repairs and maintenance in accordance with the criteria, not including repairs and maintenance that would substantially alter the



structure, result in a change of occupancy of the structure, or contravene or circumvent other provisions hereof.

Sec 90.32

Existence of nonconforming use

In case of doubt, and on a specific question raised as to whether a nonconforming use exists, it shall be a question of fact and shall be decided by the Town Commission through the special exception process after public notice and hearing and in accordance with the rules of the Commission.

Sec 90.33

Alterations or Enlargement of Nonconforming Structures

Except as provided in this Section a nonconforming structure shall not be enlarged in any manner or undergo any structural alteration unless to make it a conforming structure. Such alteration or enlargement may be permitted provide that:

1. Enlargement or alteration itself conforms to the requirement of these regulations;
2. Building non-conformity only as to height area or floor area requirements may be altered or extended; enlarged so long as it does not increase the degree of non-conformity for the applicable district.

Sec 90.34

Nonconforming uses not validated

A nonconforming use in violation of a provision of these regulations, or any provision which these regulations amend or replace shall not be validated by the adoption of these regulations.

Division III

Special exceptions, zoning changes, conditional uses and variances

Sec 90.35

Planning and Zoning Board; Applications for special exceptions, zoning changes, conditional uses and variances; rules of procedure.

Rules of procedure. The following rules shall govern procedure on all applications for special exception, zoning changes, conditional uses, and/or variances:

1. All applications shall be submitted to the Planning and Zoning Board on the prescribed form and accompanied with the prescribed fee. The Planning and Zoning Board shall be required schedule a public hearing not later than thirty (30) days after receipt of such special exception, zoning change, conditional use permit or variance request. The Board shall make its views and recommendations known to the Commission for the Commission's determination. If the Board fails to take action within the prescribed time, the Commission shall assume its duties.
2. A public hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the Town Hall at least ten (10) days prior to the public hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of three hundred (300) feet. Where practicable, such advertising shall contain, in addition to a legal description, a street address, together with the specific intended use in layman's language, i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "business zoning."
3. A notice, eighteen (18) inches by twenty-four (24) inches, shall be placed in a prominent place on the property by the applicant at his own expense denoting the following:



REQUEST FOR: _____
 PLANNING AND ZONING MEETING DATE AND TIME
 TOWN COMMISSION MEETING: DATE AND TIME

TOWN HALL
 9293 Harding Avenue
 Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE APPLICATION IS
 AVAILABLE BY CONTACTING THE TOWN HALL AT _____.

Such notice to be posted not less than ten (10) days prior to such hearing.

4. A posted notice shall contain the requested use change in layman's language as in subsection (3) of this Section. Posted notice shall be of standard size in standard colors, approved by the Town Manager or designee before erection.
5. All applications for rezoning must be made and presented by the fee title owner or owners of the property sought to be rezoned or by a tenant or attorney for the owner with the owner's written approval.
6. Applications for special exceptions, variances and conditional uses shall be adjudicated by resolution.
7. Applications for zoning changes to the land use map or rezonings shall be adjudicated through the same procedures as required for ordinance adoption as required by law.
8. Application for zoning change review criteria. In order to approve an application for zoning change the Town Commission must find that the application complies with each of the following criteria. The applicant is required to provide a report at the time the application is filed which includes documentation that the application complies with each of the below criteria:
 - a. The zoning change is consistent with the comprehensive plan;
 - b. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the site;
 - c. The resulting boundaries of the zoning district are logically drawn;
 - d. The proposed change will not reduce property values in the Town;
 - e. The proposed change will enhance the quality of life in the Town; and
 - f. There are substantial and compelling reasons why the proposed change is in the best interests of the Town.
9. Resolutions for approval of special exceptions, variances and conditional use shall be sent to each member of the Planning and Zoning Board by the Town Manager following approval by the Commission (except for a rezoning of a parcel which shall be adopted by ordinance as provided by law, and forwarded to the Planning and Zoning Board in the same manner). All resolutions approving special exceptions, conditional uses and variances granted by the Commission shall be kept in a journal maintained for such purpose.
10. The hearing shall be conducted in accordance with the quasi-judicial procedures set forth in this Code.



The following applications are quasi-judicial and shall comply with the Town's quasi-judicial legislation:

- a. Site specific rezoning.
- b. Conditional use applications.
- c. Special exceptions.
- d. Variances, including, but not limited to: trees, signs, setback, distance requirements between buildings or other variances permitted by this chapter.
- e. Development of regional impact.
- f. Any other development approval deemed to be quasi-judicial by the Town Attorney.

Sec. 90.36

Variances

90.36.1

General Variances

1. Purpose, definition, scope and limitations. A variance is a relaxation of the terms or provisions of the Zoning Code of the Town of Surfside (Zoning Code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Zoning Code would result in unnecessary and undue hardship on the property. As used in this Section, a variance is authorized only for lot coverage, dimensions of yards, setbacks, other open spaces, building spacing, parking, or loading requirements.
2. Uses and height of structures not subject to variance. A variance is authorized only as set out in subsection 1.
 - a. Under no circumstances shall the Town Commission grant a variance that would allow a use of property that is not allowed within the zoning district under the Town of Surfside Comprehensive Plan and the Zoning Code.
 - b. Under no circumstances shall the Town Commission grant a variance that would allow height of development and structures within the Town of Surfside that exceeds the maximum building heights that are set out in the Town of Surfside Comprehensive Plan or the Zoning Code, whichever provisions are more restrictive.
3. Nonconforming uses and structures not grounds for granting variance. Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and permitted use of lands, structures or buildings in any other district, shall not be considered grounds for granting a variance.
4. Town manager not authorized to vary terms of section. The Town Manager or designee has no authority to relax the terms of this Section. Authority to grant variances is lodged solely with the Town Commission.
5. Application requirements. An application for a General Variance shall be filed by the owner of the property upon which the variance is requested or the owners designated representative. The following shall, at minimum, be required to support a variance application:
 - a. Statements of ownership and control of the property, executed and sworn to by the owner or owners of one hundred (100) percent of the property described in the application, or by tenant or tenants with the owners' written, sworn consent, or by duly authorized agents evidenced by a written power of attorney if the agent is not a member of the Florida Bar.



- b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any easements.
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
 - d. Site plan indicating the existing and proposed structures.
 - e. A map indicating the general location of the property.
6. Staff review. The Town Manager or designee shall review the application to determine whether the proposed variance complies with the general purpose and standards set forth herein. The Town Manager or designee shall compile a written staff report summarizing the facts regarding the application, including all relevant documents. The complete staff report shall be transmitted to the Planning and Zoning Board and to the Town Commission.
 7. Review by Planning and Zoning Board and by the Town Commission. The Town Manager or designee shall schedule the General Variance application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing on the General Variance application, review the application, and make recommendations to the Town Commission for final action. The Town Manager or designee shall then schedule the variance application, including the recommendation of the Planning and Zoning Board, for a meeting of the Town Commission.
 - a. *Public hearing.* The Town Commission shall hold one (1) public hearing on the variance application.
 - b. *Action by the Town Commission.* In considering whether to approve or deny the application, the Town Commission shall review the application, the purposes and standards set forth in this Section, the staff report, the recommendation of the Planning and Zoning Board, and relevant evidence, including oral and written comments received at the public hearing. No variance shall be granted except upon the affirmative vote of at least four (4) members of the Town Commission.
 8. Standards of review. The Town Commission shall approve a variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:
 - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;
 - b. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
 - c. Literal interpretation of the provisions of the Zoning Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Code and results in unnecessary and undue hardship on the applicant;
 - d. The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Zoning Code;



- e. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;
 - f. Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;
 - g. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and
 - h. The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Zoning Code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.
9. Conditions and restrictions. The Town Commission may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set out in this Section, and to prevent or minimize adverse effects on other property in the neighborhood. Violation of such conditions and restrictions, when made a part of the terms under which a variance is granted, shall be deemed a violation of the Zoning Code, and shall constitute grounds for revocation of the variance.
10. Expiration of approval. The approval of a variance shall be void if the applicant does not obtain a building permit or other development order to implement the variance within twenty-four (24) months after the granting of the variance. An applicant who has obtained approval of a variance may request an extension of this time period within the original approval period. The Town Commission may grant one (1) or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.
11. Amendments and alterations to approved variances. Any expansion to an approved variance and any addition to or expansion of an existing variance shall require the same application, review, and approval as required under this Section for the original variance.

90.36.2

Administrative Variances

1. The Administrative Variance procedure shall be used for a variance from the provisions of the Zoning Code applying to setbacks for single-family structures only. The Administrative Variance procedures may only be used for applications which receive the approval from the Town Manager or designee. The maximum amount of the waiver is up to, but not greater than, five (5) percent for a side yard and ten (10) percent for a rear yard. No Administrative Variance shall be allowed for a front yard or corner yard.
2. An application for an Administrative Variance shall be made by the owner of the property and the application shall include:
 - a. The written consent of all the owners of all adjacent or abutting lots to the subject property, and
 - b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any Easements
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed



- ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
- d. Site plan indicating the existing and proposed structures.
- e. A map indicating the general location of the property.
- 3. The application shall be reviewed based on the following criteria:
 - a. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the Town;
 - b. That the requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the Town;
 - c. That the requested variance represents the minimum amount reasonably necessary to accommodate the requested action.
 - d. That the requested variance is consistent with the Goals, Objectives and Policies of the Town's Comprehensive Plan.
- 4. Upon receipt of the completed application for the Administrative Variance, the Town Manager or designee shall review the request and provide a result of denial or approval to the Planning and Zoning Board. The Planning and Zoning Board shall either ratify or reject the Town Manager or designee's determination. If the Planning and Zoning Board rejects the approval or denial determination, the application shall no longer continue as an Administrative Variance. The applicant shall submit a General Variance application and be subject to the General Variance procedures.
- 5. The Planning and Zoning Board shall ratify the Town Manager or designee's approval of the Administrative Variance in a Resolution. It shall be the burden of the applicant to record said Resolution in the official records of Miami-Dade County.

Sec. 90-37

Special exceptions

- 1. The following are special exceptions which may be granted by resolution of the Town Commission receiving at least three affirmative votes:
 - a. Nonconforming uses as follows:
 - i. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building.
 - ii. To determine the existence of a nonconforming use.
- 2. Other special use exceptions as follows:
 - i. To determine, in cases of uncertainty, the classification of any use not specifically named in these regulations; provided, however, such use shall be in keeping with uses specifically listed in the district.
- 3. The Town Manager or designee shall review the application and shall compile a written staff report summarizing the facts regarding the application and the complete staff report shall be transmitted to the Planning and Zoning Board. The Town Manager shall schedule the application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing and shall make a recommendation to the Town Commission for final action.



Sec. 90-38

Lapse of special exception or variance.

After the Town Commission has approved a special exception or granted a variance, or the Town Manager or designee has approved an Administrative Variance, the special exception or variance so approved or granted shall lapse after the expiration of two (2) years from its effective date if a building permit has not been issued, or if no substantial construction or change of use has taken place in accordance with the plans for which such special exception, or variance was granted. However, the Town Commission may grant an extension of up to six (6) months prior to the expiration of the original approval for good cause shown by the applicant.

Article III

Establishment of Zoning Designations

Sec. 90.39

Zoning Districts

In order to regulate the overall character of the Town, in an effort to restrict the massing, volume and bulk of building masses hereafter erected or structurally altered and to ensure the character and livability of the Town, the following zoning designations are hereby established. These designations further restrict the location of uses, location of buildings and the use of lot areas and regulates and determines the areas of yards, and other open spaces within and surrounding such buildings. Of primary importance is the designations' ability to control development to ensure a high quality environment that is comfortable, pedestrian friendly, safe and livable.

- 90.39.1 H30A and H30B – Districts wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.1.1 Purpose: The purpose of the H30 A&B districts is to protect the excellent character and scale of the single-family development now prevailing throughout much of the Town by preventing encroachment of incompatible uses and new structures that do not adequately respond to the overall scale of the existing context.
- 90.39.2 H30C: District wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.2.1 Purpose: The purpose of the H30C district is to permit single-family, two-family, multi-family and hotel structures no more than thirty (30) feet in height.
- 90.39.3 H40 – District wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.3.1 Purpose: The purpose of the H40 district is to permit single-family, two-family, multi-family and hotel structures no more than forty (40) feet in height.
- 90.39.4 H120 – District wherein building masses are restricted to a maximum building height of one hundred twenty (120) feet.
- 90.39.4.1 Purpose: The purpose of the H120 district is to permit multi-family dwellings and hotels no more than one hundred twenty (120) feet in height.
- 90.39.5 SD-B40 – Special district wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.5.1 Purpose: The purpose of the SD-B40 district is to permit businesses no more than forty (40) feet in height.
- 90.39.6 Municipal: Community and Town owned facilities. Municipal zoning districts are assigned as municipal owned lands are aggregated.



Sec. 90.40

Regulating Maps

The zoning classification thereof shall be shown on a map designated as the Zoning Map of Surfside. This zoning map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations by the Clerk of the Town. Such map shall be available for public inspection in the offices of the Town Clerk and the Town Manager and any later alterations to this map, adopted by amendment as provided in these regulations, shall be similarly dated, filed, and made available for public reference.

- 90.40.1 Purpose. The intent and purpose of the regulating maps is to identify certain specific areas that, by virtue of their location, the Town desires to require features that promote the safety, comfort and convenience of the pedestrian.
- 90.40.2 Map symbols. A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines which such name or letter-number combination is shown or indicated, except as otherwise provided by this Section.
- 90.40.3 Interpretation. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:
 - 90.40.3.1 In cases where a boundary line is given a position adjacent to or within a street or alley, easement, or canal, it shall be deemed to be in the center of the street, alley, easement, or canal and if the actual location of such street, alley, easement or canal varies slightly from the location as shown on the district map, then the actual location shall control.
 - 90.40.3.2 In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
 - 90.40.3.3 Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be re-subdivided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of these regulations are bounded approximately by lot lines, such lot lines shall be construed to be the boundary of such districts unless such boundaries are otherwise indicated in the map or by ordinance.
 - 90.40.3.4 All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town limit line.

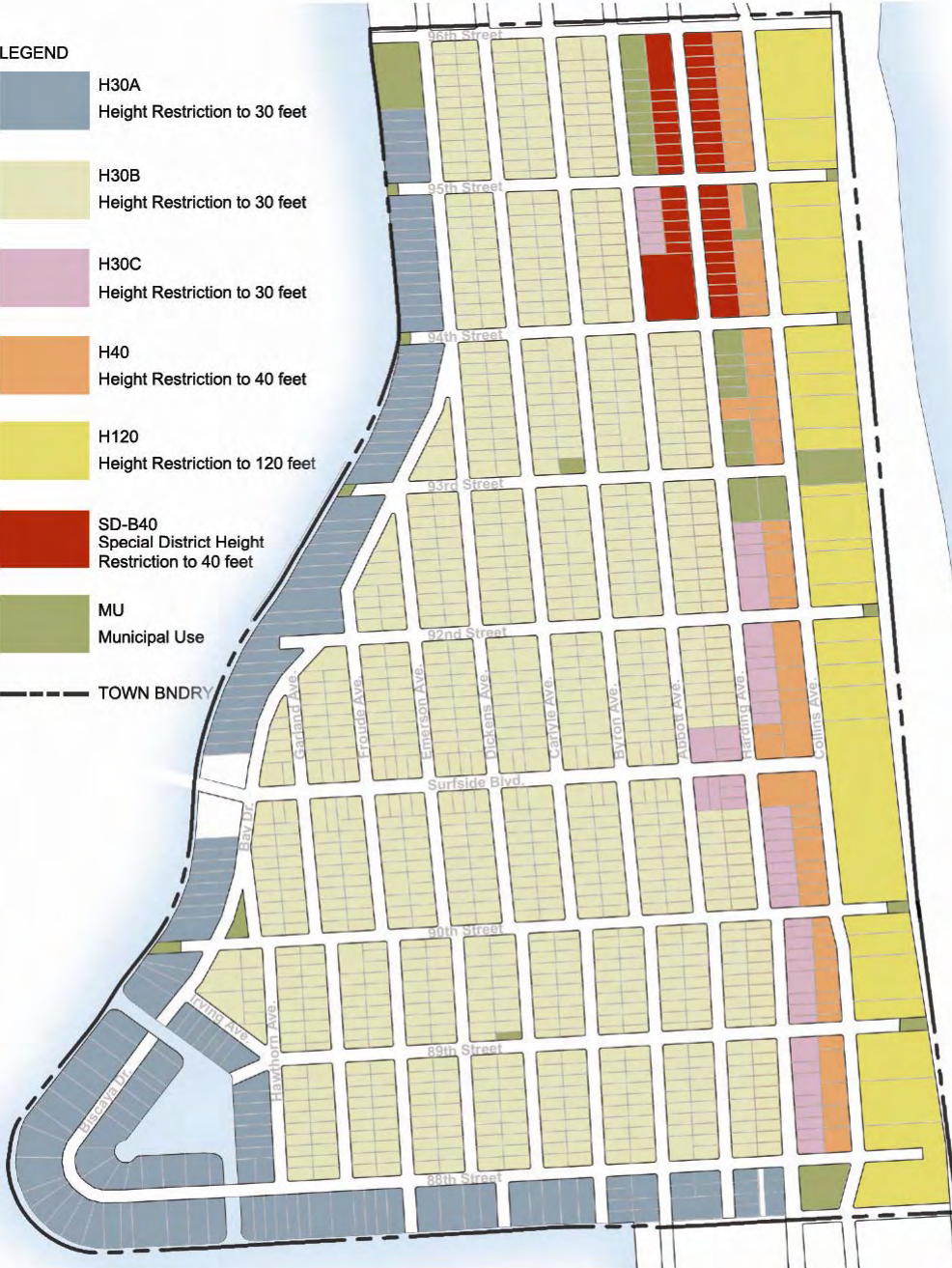


TOWN OF SURFSIDE ZONING MAP



LEGEND

-  H30A
Height Restriction to 30 feet
-  H30B
Height Restriction to 30 feet
-  H30C
Height Restriction to 30 feet
-  H40
Height Restriction to 40 feet
-  H120
Height Restriction to 120 feet
-  SD-B40
Special District Height
Restriction to 40 feet
-  MU
Municipal Use
-  TOWN BNDRY





Standards

Article IV District Regulations

Sec. 90-41 Regulated Uses

Applicability and validity of tables - nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

- (a) Purpose. Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.
- (b) Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.
- (c) Table - Regulated Uses

	H30A	H30B	H30C	H40	H120	SD-B40
Residential Uses						
Detached Single Family	P (1)	P (1)	P(1)	P(1)	P(1)	-
Duplex	-	-	P	P	P	-
Multi-Dwelling Structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
Lodging Uses						
Hotel	-	-	P(7, 19)	P(7)	P(7)	-
Suite-Hotel	-	-	P(7, 19)	P(7)	P(7)	-
Office Uses and Professional Services						
Banks	-	-	-	-	-	P
Business and Professional offices, except veterinary offices	-	-	-	-	-	P
Currency exchange	-	-	-	-	-	P
Delivery service	-	-	-	-	-	P(9)
Employment agencies	-	-	-	-	-	P(9, 17)
General Ticket Agencies	-	-	-	-	-	P
Interior decorator	-	-	-	-	-	P
Loan or mortgage office	-	-	-	-	-	P(9)
Medical or dental clinic	-	-	-	-	-	P(9)
Radio or television station or studio	-	-	-	-	-	P(9)
Savings and loan associates	-	-	-	-	-	P
Secretarial service, mailing, bookkeeping, court reporter	-	-	-	-	-	P(9)
Stocks and bond brokers	-	-	-	-	-	P
Taxi agency	-	-	-	-	-	P(9)
Telegraph station	-	-	-	-	-	P
Telephone exchange	-	-	-	-	-	P
Title company	-	-	-	-	-	P(9)
Travel agency	-	-	-	-	-	P



	H30A	H30B	H30C	H40	H120	SD-B40
Retail and General Commercial Uses						
Antique Shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art Dealers	-	-	-	-	-	P
Art Supplies	-	-	-	-	-	P
Barbershops	-	-	-	-	-	P
Beauty Parlors	-	-	-	-	-	P (2019)
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines	-	-	-	-	-	P(15)
Department Stores	-	-	-	-	-	P
Drug stores and sundries	-	-	-	-	-	P
Dry cleaning and laundry agency	-	-	-	-	-	P(10)
Dry Goods	-	-	-	-	-	P
Flowers and plants	-	-	-	-	-	P
Furniture	-	-	-	-	-	P(14)
Furrier	-	-	-	-	-	P
Gift Shops	-	-	-	-	-	P
Hardware, paint and wallpaper	-	-	-	-	-	P
Jewelry	-	-	-	-	-	P
Locksmith	-	-	-	-	-	P(11)
Luggage	-	-	-	-	-	P
Men's, women's, children's clothing	-	-	-	-	-	P
Millinery	-	-	-	-	-	P
Office machines and supplies	-	-	-	-	-	P
Pet supplies	-	-	-	-	-	P
Photographers and camera stores	-	-	-	-	-	P
Pottery	-	-	-	-	-	P
Sale of televisions, radios, phonograph and recording equipment	-	-	-	-	-	P
Sheet music and musical instruments	-	-	-	-	-	P
Shoe Repair	-	-	-	-	-	P(2120)
Shoes	-	-	-	-	-	P
Sporting goods	-	-	-	-	-	P
Stationery and greeting cards	-	-	-	-	-	P
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P
Video tapes sales and rentals	-	-	-	-	-	P(12)
Food Services						
Bakeries	-	-	-	-	-	P(8)
Candy and Nut Shops	-	-	-	-	-	P(13)
Caterers	-	-	-	-	-	P
Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit Shops	-	-	-	-	-	P(13)



	H30A	H30B	H30C	H40	H120	SD-B40
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor Stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
Educational Services						
Dance or music instruction studios	-	-	-	-	-	P(9, 16)
Driving school offices			-	-		P(9, 22 21)
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public Schools	-	-	P	P	-	-
Places of Assembly						
See RLUIPA Map and Ordinance 07-1479	-	-	P	-	-	P
Civic Uses						
Parks & Open Space	P	P	P	P	P	-
Playgrounds	P	P	P	P	P	

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes

Uses	Municipal	Community Facilities
Library	P	P
Parks & Open Space	P	P
Playgrounds	P	P
Community Center	P	P
Gymnasiums	P	P
Town Offices	P	P
Police Facilities	P	P
Pump Stations	P	

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted

	H30A	H30B	H30C	H40	H120	SD-B40
Accessory Uses						
Boat Docks + Moorings	P (2)	-		-	-	-
Game Courts	P (2)	P (2)	P(2)	P (2)	P (2)	-
Home Bar-B-Q Grills	P (2)	P (2)	P(2)	P (2)	P (2)	-
Laundry/Service Rooms	-	-	P(5)	P (5)	P (5)	-
Office Spaces	-	-		P (3)	P (3)	-
Recreational Rooms	-	-	P(4)	P (4)	P (4)	-
Subordinate Buildings	-	-		-	-	P (18)
Swimming Pools	P (2)	P (2)	P(2)	P (2)	P (2)	-
Vending Machines	-	-	P(6)	P (6)	P (6)	-
Parking	-	-	P	P	-	P

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted



(d) Uses Table Notes

1. Detached single-family dwellings, subject to the following restrictions and limitations, as follows:
 - a. No structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose which is designed, arranged or intended to be used or occupied for any purpose other than as a one-family residence, including every customary use not inconsistent therewith.
 - b. Every use not specifically authorized and permitted is prohibited and nothing herein shall authorize or be construed to permit the renting of a room or a portion of the property or improvement; or, to permit the use of any part of the premises as a business, office or establishment for the purpose of carrying on any business or the practice of rendering personal, trade or professional services, except as provided under the "Home Office" provision of this Code.
 - c. An accessory or subordinate building, attached or detached from the main premises in a single-family district, shall be construed to permit the use of such building for the purposes of garages, cabanas, storage and home workshops (non-commercial). However, nothing herein shall authorize or be construed to permit the occupancy or the use of any accessory building or structure, as a place of abode or dwelling, and no cooking or kitchen facilities shall be permitted.
2. Shall be for private-use only limited to residents and guests only and not public access.
3. Shall be limited to an area of not more than two (2) percent of the gross floor area of the building for administration of rental units in a building containing ten (10) or more living units.
4. Shall be limited to lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.
5. Shall be for the use of residents and guests of a multiple-family dwelling and shall not be for public access. Coin-operated laundry machines may be utilized.
6. Shall be allowable only inside buildings containing ten (10) or more living units or guest rooms.
7. May provide a barbershop, beauty parlor, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand, automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines, washing machines, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel.
8. Shall conform to the following restrictions and conditions:
 - a. That no baking shall be done on the premises for other retail or wholesale outlets.



- b. That ovens or oven capacity is limited in total usable baking space, not to exceed in volume eighteen (18) standard pans of eighteen (18) by twenty-six (26) inches in width and length.
 - c. That adjoining properties shall be safeguarded and protected from exhaust fan or other obnoxious noises and odors at all times.
 - d. That all baking will be done by the use of electric or natural gas (not bottled gas) ovens only.
 - e. All machinery and equipment shall be entirely confined within the main building.
 - f. That the hours of baking operation shall be limited to those hours between 6:00 a.m. and 9:00 p.m.
 - g. That the entire store area shall be fully air-conditioned as required for comfort.
 - h. That baking shall not be permitted within twenty (20) feet of the store front, and shall be separated from the sales area by a partition or counter.
9. Shall only be allowed above the first floor.
 10. Provided all machinery which provides cleaning or laundry services shall be separated from customer areas by a partition or counter and no customers shall be permitted to use such machinery. In addition, all dry cleaning machinery shall be non-ventilated, sealed system type machinery in which "Fluorocarbon R-113" type solvents are used.
 11. Shall not be visible from sidewalk or street and shall not be permitted fronting Harding Avenue.
 12. Provided all tapes sold are prerecorded, and all tapes are rated either G, PG, PG-13, or R.
 13. Provided that no sales shall be made through an open window to any street, alley, driveway or sidewalk
 14. Provided no repairing or servicing of furniture is permitted on the premises.
 15. Coin-operated machines for dispensing goods or services are permitted, except that washing machines, dryers and other laundry-related equipment are prohibited. No coin-operated games of chance are permitted, but coin-operated games of skill are permitted within establishments solely dispensing liquor, for consumption on the premises only; provided, however, that not more than three (3) such games of skill are permitted in any such establishment, and that such games shall not be used for wagering nor for the awarding of prizes of any value.
 16. Shall only be allowed above the first floor and such studios meet all of the following restrictions and conditions:
 - a. That the premises be air conditioned and soundproofed.
 - b. That no dance instruction or dancing shall be visible from any sidewalk, street or alley.
 - c. That the opening and closing hours for such studios may be established by the Town Commission at its discretion at any time.
 17. Shall only be allowed above the first floor and such use shall maintain at all times sufficient office space to accommodate all applicants for employment using their services and obviate the congregating or loitering of such applicants in any hallway or on any sidewalk.



- 18. Shall be any subordinate building or use which is clearly incidental to and customary in connection with the main building or use, provided there shall be no open storage of products and materials, including garbage and debris, on any lot.
- ~~19. Shall be limited only to properties between Collins Avenue and Harding Avenue.~~
- ~~20~~ 19. Exterior windows on the ground floor shall be screened, curtained or otherwise made opaque four feet six inches from the grade of the adjacent sidewalk so as to block the view of the interior premises from the public right-of-way. However, such screening shall not be required where only hair styling and manicures are performed within twenty (20) feet of the public right-of-way.
- ~~21~~ 20. Provided no machinery for providing repairs shall be visible from the sidewalk or street and no shoe repair shop shall be permitted on Harding Avenue
- ~~22~~ 21. Provided such use shall be limited to offices only, and shall not be interpreted in any manner as permitting the conduct of any such school's or schools' business, activities or functions upon the public streets of the town.

Sec. 90-42

Minimum Unit Sizes

Unit Sizes	Minimum Area (Square Feet)
Efficiencies	600 SF
One-bedroom Apartments	800 SF
Two-Bedroom Apartments	950 SF
Three-Bedroom Apartments	1150 SF
Hotel Rooms, each	350 SF
Suite-Hotel Rooms, each	525 SF

Sec. 90-43

Maximum Building Heights

Designation	Maximum Height (Feet)
H30A	30 FT
H30B	30 FT
H30C	30 FT
H40	40 FT
H120	120 FT
SD-B40	40 FT
MU	Surrounding Designation
CF	70 FT



Sec. 90.44
90.44.1

Modifications of height regulations.

Architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, may be erected to a reasonable and necessary height, consistent with and not to exceed the following limitations:

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H30A	3 FT	1%
H30B	3 FT	1%
H30C	3 FT	10%
H40	12 FT	10%
H120	20 FT	30%
SD-B40	12 FT	10%

90.44.2 Mechanical equipment rooms, including elevator shafts, may be allowed to exceed the maximum height limitations, not to exceed the limitations listed above, provided they shall be of a high architectural quality integral to the design of the building.

90.44.3 In the H120 district, on lots or parcels where construction is regulated by the State of Florida Coastal Construction Code, maximum height shall be measured from whatever elevation is established by the Florida Department of Environmental Protection for the first floor.

Sec. 90.45
90.45.1

Setbacks

Required Setbacks – Tables

H30A	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H30B	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage



H30C	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H40 - Harding Avenue + Less than or equal to 50 ft in width	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than 50 ft and less than 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than or equal to 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H120	Minimum Setback (Feet)
Primary frontage	40 FT
Interior side	10 FT
Rear	30 FT
Secondary frontage (Corner only)	20 FT

SD-B40	Maximum Setback (Feet)
Primary frontage	0 FT
Interior side	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

Sec. 90.46

Projections into required setbacks

In determining compliance with the minimum setback requirements established within these regulations, the controlling distance on each lot shall be measured between the applicable lot line and the closest point thereto on any building or structure erected on the lot, and no portion of any roof overhang, chimney, cornice, or other similar architectural feature shall project into any required front, side or rear yard, except as otherwise provided.



- Sec. 90.47 Yards generally, allowable projections**
- 90.47.1 Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features may project not more than twenty-four (24) inches into any required yard.
- 90.47.2 Moveable awnings may be placed over doors or windows and may project not more than three (3) feet into any required yard.
- 90.47.3 In properties designated H30A or H30B, air conditioning equipment, pool pump or other mechanical equipment may be located in a required rear setback, provided such equipment is at least fifteen (15) feet from any other single-family or two-family residence and is not visible from any street or waterway.
- 90.47.4 In the H40 district on lots with less than seventy-five (75) feet of frontage and east of Harding Avenue in H30C district, unenclosed balconies may extend into a required primary (front) and secondary (corner) setback not more than five (5) feet, and may extend into a required rear and interior side setback not more than two and one half (2 ½) feet.
- 90.47.5 In all districts except H120 district, open, unenclosed building entrance porches, platforms, stairs or paved terraces, not covered by a roof or canopy, and which do not extend above the level of the grade or entrance floor of the building, may extend or project into the required front or side yard no more than six (6) feet and the encroachments shall not provide less than a twenty-four (24) inch setback to the property line.
- 90.47.6 In the H120 district, open unenclosed balconies may extend into a required primary (front), secondary (corner), or rear setback not more than eight (8) feet, and may extend into a required interior side setback not more than five (5) feet.
- 90.47.7 In the H30C, H40, and H120 districts no more than ninety (90) percent of a balcony's footprint shall overhang the balcony on a lower level.
- 90.47.8 In the H30, H40 and H120 district a cantilevered canopy will be permitted in the required front yard, subject to the following:
1. The structure must be completely supported (cantilevered) from the main structure;
 2. The structure must be transparent in nature with a solid to transparent material ratio of no more than thirty-five (35) percent solid to sixty-five (65) percent transparent;
 3. The structure must not have a frontage of more than thirty (30) feet in width;
 4. The structure must not extend more than twenty (20) feet into the required front setback; and
 5. The structures shall not extend into any side setback area.
- Sec. 90.48 Modification of side and rear yard regulations**
- 90.48.1 The minimum width of side setbacks for libraries, places of public assembly, recreational centers and other public, semipublic and civic buildings shall be a minimum of fifteen (15) feet.
- 90.48.2 In all districts other than the H120 districts, the required side setbacks for corner lots adjoining canals or waterway shall comply with the secondary frontage setback requirements for that frontage.



90.48.3 In the H30A district, no building shall be erected within twenty-five (25) feet of the seawall on Point Lake nor within fifty (50) feet of the sea wall on Biscayne Bay or on any lots in Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.

90.48.4 Where a lot abuts an alley, the depth of the rear yard shall be seven (7) feet.

90.48.5 In the H120 district, when a building exceeds a height of thirty (30) feet, the width of each side yard shall be increased by one (1) foot for every three (3) feet of building height above thirty (30) feet, provided however, on a corner lot the minimum width of the side yard adjoining a street need not exceed twenty (20) feet.

Sec. 90.49 Lot Standards

Lot Standards	H30A	H30B	H30C	H40	H120	SD-B40	MU
Minimum Lot width	50 FT	50 FT	50 FT	50 FT	150 FT	0 Ft	-
Minimum lot area	8,000 FT	5,600 FT	-	-	-	-	-
Maximum Lot coverage	40%	40%	-	-	-	-	-
Minimum Pervious area	35%	35%	20%	20%	20%	-	-



Article V Design Standards

- Sec. 90.50 Roof Deck Provisions.**
- 90.50.1 Roof decks shall be permitted in all zoning districts.
- 90.50.2 For properties designated H30A and H30B, roof decks area limited as follows:
1. Exterior and interior stairs shall be permitted
 2. No extension of stairs shall be permitted over the thirty (30) feet height limitation of the building.
 3. Roof decks shall provide ten (10) foot setbacks on the sides and rear of the building.
- 90.50.2 For properties designated H30C, H40, H120, SD-B40 and MU, roof decks are limited to:
1. A maximum of seventy (70) percent of the aggregate roof area;
 2. Shall not exceed the maximum roof height required by any abutting property's zoning designation;
 3. Shall be setback from the roofline at least ten (10) feet on all sides to provide for minimal visibility of roof decks from any public way, except on properties designated SD-B40; and
- 90.50.3 All roof decks added to existing buildings shall be inspected by a Registered Structural Engineer and Registered Architect, who shall address in writing to the Building Official the following issues:
1. How will the existing roofing system be protected or replaced to allow for the new use;
 2. Structural support strategies for any increase in live loads and dead loads;
 3. Compliance with applicable ADA requirements;
 4. Location of plumbing and mechanical vent stacks, fans and other appurtenances;
 5. Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;
 6. Added occupancy and servicing restroom facilities; and
 7. All other issues applicable in the Florida Building Code.
- 90.50.4 All work performed on an existing roof deck to allow for occupancy shall be considered a change of use and shall require both a Permit and a Certificate of Occupancy.
- Sec. 90.51 Maximum frontage of buildings**
- 90.51.1 Continuous wall frontage shall be articulated as follows:
1. H30C: For every fifty (50) feet, a minimum three (3) foot change in wall plane.
 2. H40: For every seventy-five (75) feet, a minimum six (6) foot change in wall plane.
 3. H120: For every one-hundred (100) feet, a minimum six (6) foot change in wall planes. The change shall be either vertical or horizontal.
- Sec. 90.52 Required clearances**
- As an aid to free and safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians, operators of vehicles and for property, for proposed construction hereafter, there shall be limitations on the height of fences, walls,



gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting on corner lots in all districts where front yards are required as follows:

- a. All corner properties shall provide and maintain unobstructed corner clearance areas measured a distance of twenty-five (25) feet along both the front and side lot lines, measured from the point of intersection, of the intersecting lot lines.
- b. All objects within any corner areas as previously defined shall be limited to a maximum height of twenty-four (24) inches above the established elevation of the nearest curb;
- c. Any permanent or semi-permanent structures, including trees or shrubs, with the exception of walls or fences subject to the height limitations stated herein, shall not be allowed or constructed within any part of the corner clearance areas; and
- d. It shall be unlawful for any person to plant or cause to be planted any tree or shrubs or to place any structure in the public right-of-way without a permit from the Town Manager or designee. The elevation grades of the public right-of-way adjacent to private property shall not be altered.

- Sec. 90.53 Portable Storage Units**
- 90.53.1 There shall be no more than one (1) portable storage unit allowed per site.
- 90.53.2 The portable storage unit shall be no larger than one hundred thirty (130) square feet in area and no higher than nine (9) feet in height.
- 90.53.3 Placement: Portable storage units shall be permitted in all zoning districts and are subject to the following restrictions:
- a. In H30A and H30B districts: Portable storage units shall generally be placed only in a driveway.
 - b. In H40 and H120 districts, portable storage units shall be placed only in the rear or side portion of a site. Portable storage units shall not be placed in an area fronting Collins Avenue or Harding Avenue or in the front of an establishment. The placement of portable storage units in fire lanes, passenger loading zones, commercial loading zones or public rights-of-way shall be strictly prohibited.
- 90.53.4 Duration of portable storage units shall be limited to the following:
- a. In H30A, H30B, and H30C districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days and portable storage units shall not be placed at any one (1) site in excess of twenty eight (28) days in any calendar year.
 - b. In H40 and H120 districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days, and portable storage units shall not be placed at any one (1) site in excess of sixty (60) days in any calendar year.
- 90.53.5 A portable storage unit shall have no signage other than the name, address and telephone number of the person or firm engaged in the business of renting or otherwise placing the portable storage unit.
- 90.53.6 The owner and operator of any site on which a portable storage unit is placed shall be responsible to ensure that the portable storage unit is in good condition, free from evidence of deteriorating, weathering, discoloration, rust, ripping, tearing or other holes or breaks.



90.53.7 Notwithstanding the time limitations set forth herein, all portable storage units shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a portable storage unit to remain at a site for a period in excess of such time limitations.

Sec. 90.54 Accessory buildings and structures in the H30A and H30B districts:

90.54.1 Any accessory buildings not connected to the main building, except by a breezeway, may be constructed in a rear yard, subject to the following provisions:

- a. The maximum height shall be twelve (12) feet.
- b. The maximum aggregated area shall be five hundred (500) square feet
- c. The structure shall provide a minimum rear setback of five (5) feet and shall conform to all other setbacks applicable to the property.

90.54.2 Accessory swimming pools and decks, open and unenclosed, or covered by a screen enclosure, may occupy a required rear, front, or side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

90.54.3 An open, uncovered porch, patio, or terrace may occupy a required rear or interior side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

90.54.4 Tents and canvas cabanas for temporary shelter and not used for overnight sleeping or containing cooking facilities shall be considered as accessory buildings and subject to the same regulations as other accessory buildings.

90.54.5 A detached garage shall not be remodeled and used as a part of the main building

90.54.6 An attached garage may not be remodeled and used as a part of the main building unless all required off-street parking spaces are provided elsewhere on the lot.

90.54.7 A tool shed, the area of which does not exceed seventy (70) square feet, shall be permitted in a rear yard, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Side and Secondary Frontage (Corner): Per Zoning Designation

90.54.8 All accessory buildings and structures, swimming pools, and accompanying fences and landscaping, located in the front yard setback shall be subject to review by the Design Review Board.

90.54.9 All accessory buildings and structures, swimming pools, and accompanying fences shall meet all applicable requirements of the Florida Building Code.

90.54.10 No accessory building shall be constructed upon a lot until the construction of a main building has been actually completed, except where construction of main and accessory buildings is concurrent. No accessory building shall be used unless the main building on the lot is also being in use.



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- Sec. 90.55** **Accessory buildings and structures in the H30C, H40, SD-B40 and H120 districts:**
- 90.55.1 Non-habitable structures, including but not limited to cabanas, pergolas, gazeboes and trellises shall have a maximum height of twelve (12) feet.
- Sec. 90.56** **Fences, walls and hedges**
- 90.56.1 An ornamental fence or wall not more than six (6) feet in height, as measured from crown of road, may project into or enclose any yard, except as otherwise provided herein.
- 90.56.2 The height of such ornamental fence or wall shall be measured from the elevation of the crown of the road upon the street serving the lot or building site.
- 90.56.3 An ornamental fence or wall may be placed within the front yard of side corner yard if granted approval by the Design Review Board.
- 90.56.4 Ornamental walls placed within the front yard or side corner yard shall be subject to the following:
- a. The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or
 - b. All wall surfaces above twenty-four (24) inches measured from grade shall have a maximum opacity of fifty (50) percent; or
 - c. No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.
- 90.56.5 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.
- 90.56.6 Hedges shall be no more than four (4) feet in height in the front yard and side corner yards and ten (10) feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the Design Review Board, on a case-by-case basis.
- 90.56.7 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of Section 90-52 (Required Clearances) or fire codes, including concealment of fire hydrants.
- 90.56.8 No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than one hundred and fifteen (115) feet in width shall be permitted, provided that it is understood by the property owner that the Town does not waive its right to demand removal without notice as deemed necessary within the Town's discretion and the Town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.
- 90.56.9 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may



be constructed with posts on the outside of the fence provided that the horizontal rails are at least fifty (50) percent covered by boards on the side facing away from the property on which the fence is constructed.

90.56.10 It shall be a violation under this Article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this Section and as determined by the Town Manager or designee.

90.56.11 The following fencing material shall be prohibited:

- a. Chain-link and other wire fencing
- b. Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

90.56.12 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

90.56.13 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the Town Manager or designee.

90.56.14 Temporary construction fences shall be permitted. The maximum height of such fence shall be six (6) feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

Sec. 90.57 Marine structures

The following regulations shall apply to boat docks, piers, and mooring piles, in any district:

1. Projection of docks and piers into waterways beyond the waterway line, lot line, or established bulkhead lines shall be limited as follows, subject to final approval of DERM and any other applicable agency:
 - a. Biscayne Bay: thirty-five (35) feet
 - b. Indian Creek: thirty-five (35) feet
 - c. Point Lake: thirty-five (35) feet
2. Under no circumstances shall any dock or pier be constructed so as to project into any waterway for a distance equal to more than ten (10) percent of the width of such waterway's frontage.

Sec. 90.58 Carport canopies

Carport canopies may be constructed, in a front, side or rear yard setback in the H30A and H30B districts.

1. Such canopy shall not exceed twenty (20) feet in length, nor ten (10) feet in width.
2. No canopy shall extend beyond a property line or shall be closer than five (5) feet to the rear of the street curb, and supporting pipes shall be no closer than seven (7) feet.



3. The height of such canopy shall not exceed ten (10) feet, measured from the ground level to the uppermost point of the cover.
4. A front yard canopy shall be at least five (5) feet from the side property line.
5. A canopy shall at all times remain open on all four (4) sides, if free standing, and open on three (3) sides if attached to the main building.
6. The area under a canopy must be entirely concreted or asphalted.
7. Side openings shall be at least six (6) feet, three (3) inches, in height as measured from the ground level.
8. The width of the canopy shall not be less than the width of the driveway.

90.58.1

In addition to all provisions of the Florida Building Code, the following construction standards for canvas-covered canopies are required and shall be complied with:

1. No canopy carport shall be constructed except of canvas (or similar material) covered pipe. Framework shall be galvanized Schedule 40 pipe assembled either with Schedule 40 galvanized fittings or welded and joints painted with a liquid zinc compound. For a ten (10) foot by twenty (20) foot canopy, uprights shall be of not less than one and a quarter (1 ¼) inch pipe; the perimeter shall be of not less than one (1) inch pipe and the rafters of not less than three fourths (¾) inch pipe. For a twenty (20) foot by twenty (20) foot canopy, the pipe sizes shall each be increased by one fourth (¼) inch. All uprights shall be either lag-bolted into a concrete base or, if mounted in dirt, concreted at least one (1) foot deep with a safety tee at the bottom of the pipe. The design and the minimum size of structural members shall not be less than required to resist a seventy-five (75) mile-per-hour wind with applicable shape factors. All fabric shall be designed for quick removal, which shall be required at a wind velocity in excess of seventy-five (75) miles per hour.
2. The framework height shall be a maximum of ten (10) feet and a minimum of seven (7) feet above grade. No uprights shall be installed closer than two (2) feet from the front lot line.
3. Covering material shall carry the Miami-Dade Fire Marshal's certificate of non-flammability. The material shall be attached to the framework by lacings only.

Sec. 90.59

Outdoor receiving and broadcasting antennae

No outdoor receiving or broadcasting antenna, whether tower, pole, mast, disk, bowl, planar or similar structure, weighing more than twenty (20) pounds shall be placed or erected in the Town without a permit from the Town. Only one permit shall be issued for each main building on a lot, in accordance to the following:

1. Permit application. The application for a permit shall be made to the Town Manager, accompanied by a site sketch, showing dimension and location of the antenna in relation to the site boundaries, setback lines and the existing structures on the site; and drawings by a licensed structural engineer, showing the method of permanently anchoring the antenna and listing the materials to be used in such anchoring. A landscaping or covering plan may be required when appropriate.
2. Fee. A permit fee shall be required.
3. Construction provisions; yard placement. All such antennae shall be constructed to withstand a one hundred forty-six (146) mile-per-hour wind and in accordance with the provisions of the Florida Building Code and



these regulations; and in no case shall they be placed within, or intruding into, the front or side yards of any property. In the H120 zoning district, Collins Avenue shall be deemed to be the front of the property.

4. Roof placement. No antenna requiring a Town permit shall be placed upon the roof of any structure except in the H120 zoning district.
5. Height limits-Tower, pole, mast. For aesthetic reasons, tower, pole or mast antennae, except in the H120 zoning district, shall not be more than eight (8) feet, at their highest point, above the highest point of the main structure's roof. However, such antennae for amateur broadcasting purposes (ham radio) may have antennae thirty-five (35) feet in height from the average grade of the lot, or fifty (50) feet in height, if the antennae is of a retractable type that can readily be lowered to twenty-five (25) feet or less when not in use.
6. Height limits-Disk, bowl, planar. Disk, bowl, planar or similar-shaped antennae in any zoning district, except H120, shall not exceed a total of twelve (12) feet in height above the ground, including supporting structures; and the diameter shall not exceed thirty six (36) inches. All such disk, bowl, planar or similar-shaped antennae shall be sufficiently landscaped or covered so as to obscure the antennae from view from surrounding and adjacent properties.

Sec. 90.60

Construction adjacent to bulkhead lines

90.60.1

Ocean bulkhead lines are established in Section 14-86 and the following regulations shall control construction adjacent thereto:

1. No permit shall be issued for the construction of any habitable, fully-enclosed structure which shall be closer than twenty (20) feet to the ocean bulkhead line.
2. No permit shall be issued for the repair, extension, alteration or replacement of any habitable, fully-enclosed structure lying within twenty (20) feet of the ocean bulkhead line.

90.60.2

Indian Creek bulkhead lines are established in Section 14-101 and the following regulations shall control construction adjacent thereto:

1. Permits required. It is hereby declared to be unlawful for any person to construct or erect any bulkhead, sea wall or other shore protection work along the shore line of Indian Creek in the Town without first obtaining a permit from the Town Manager or designee.
2. General limitations.
 - a. No permit shall be issued for construction, repair, alteration, extension or replacement of any structure of any nature whatsoever other than a bulkhead, seawall or shore protection work as mentioned in the preceding Section, or marine structure as mentioned in subsection 90-56, which shall be closer than twenty (20) feet to the Indian Creek bulkhead line. Provided however, that a swimming pool may be constructed no closer than fifteen (15) feet to the Indian Creek bulkhead line.
 - b. A swimming pool construction landward of less than twenty (20) feet of the Indian Creek bulkhead line shall be thoroughly investigated by a registered Structural Engineer known to the building official to be qualified to evaluate retaining walls, seawalls, bulkhead or other shore protective structures. The structural engineer shall certify that said construction will not compromise the structural capacity of the adjacent retaining wall, seawall, bulkheads or other shore protective



structure, and such construction will allow continued maintenance of said retaining wall, seawall or bulkhead, including anchors and soil supports. A certification shall be included on the drawings that the proposed construction has been designed in accordance with the Florida Building Code and all applicable laws. Upon project completion the registered engineer shall submit to the building official a letter attesting that the construction of the improvements has been observed and is in accordance with Section 307.2 of the Florida Building Code and all applicable local ordinances. The letter shall be signed and have the impressed seal of the registered structural engineer, as applicable.

- c. No permit shall be issued for the construction of a bulkhead, seawall or other shore protection work, unless the plans and specifications of the bulkhead, seawall or other shore protection work show that the bulkhead, seawall or other shore protection work is so located as not to extend outward beyond the Indian Creek bulkhead line as heretofore established, and shall show that the bulkhead, seawall or other shore protection work will be constructed of pre-cast concrete slab or reinforced concrete and shall have an elevation of not less than plus five feet above mean low water, U.S. Engineering Department Biscayne Bay Datum, and shall be of sufficient depth below mean low water to ensure the retention of all fill or soil on the landward side thereof, and of sufficient weight and strength to withstand hurricanes, windstorms and high tide waters and waves incident thereto.

90.60.3 All structures on Biscayne Bay and Point Lake shall be required to obtain a permit and meet the setbacks and general limitations established in subsection (b) of this Section (Indian Creek bulkhead lines).

90.60.4 All applications for building permits on properties designated H30A shall include a certified survey showing the point of intersection of the Indian Creek or other regulated seawall line with the adjacent side lot lines and/or street lot lines of the property on which construction is proposed, together with a certificate of a registered engineer or surveyor indicating that all of the work proposed to be done under the permit complies with all provisions of this Section.

90.60.5 The owner of the property on which or adjacent to which any such seawall, bulkhead or other shore protection work shall be constructed, in accordance with a permit issued in accordance with the provisions of this Section, shall furnish to the Town Manager or designee a certificate signed by the owner and the contractor doing the work, that such seawall or bulkhead has been erected or constructed in strict accordance with the terms of such permit and the plans and specifications submitted for such work.

Sec. 90.61
90.61.1

Paving in front and rear yards in H30 and H40 Districts

Front setbacks in the H30A, H30B, H30C or H40 districts shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater.

- a. Not less than thirty (30) percent of the front yard shall be landscaped.
- b. Not less than twenty (20) percent of the rear yard shall be landscaped.
- c. No front yard shall be accessible by vehicles from a public street by more than two (2) curb cuts.
- d. No curb cut shall be located within five (5) feet of a side lot line.
- e. Where there is a single curb cut for any one property, the curb cut shall not be more than eighteen (18) feet in width.



- f. Where there are two curb cuts for any one property, the curb cuts shall not be more than twelve (12) feet in width, and there shall be at least twelve (12) feet between curb cuts. Where a driveway is installed with two (2) curb cuts, a landscaped island containing at least sixty (60) square feet shall be provided between the curb cuts in the front yard area, extending from the front property line to the paved area.
- g. On corner lots where vehicular access and off-street parking are provided in a side yard, these same regulations shall apply also to the side yard. Such side yards shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater and not less than thirty (30) percent of the side yard shall be landscaped.

Sec 90.62

Outdoor lighting

To assure that outdoor lighting is in harmony with the site architecture design, the adjacent area and the neighborhood; and to prevent a nuisance to adjacent properties or creation of traffic hazards on adjacent streets by reason of glare, reflection or the like; outdoor lighting for areas such as but not limited to, off-street parking, security or any other purposes, shall be permitted under the following conditions:

- a. Plans indicating the location of the lighting fixtures; type of lights, height of lights and levels of illumination; shade, type and height of lighting poles; and bases, deflectors and beam directions shall be submitted to the Town Manager or designee for approval.
- b. Lighting fixtures and lighting poles, including mounting bases, shall not exceed eighteen (18) feet in height from grade, shall be of decorative nature and shall be in harmony with the site architecture design, the adjacent area and the neighborhood. Decorative lighting poles and bases shall be constructed of anodized aluminum, pigmented concrete, fiberglass or other materials of similar characteristics as approved by the Town Manager or designee.
- c. Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one half (1/2) foot-candle (vertical) and one half (1/2) foot-candle (horizontal) illumination on adjacent properties. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered architect or engineer is provided to the Town Manager or designee, certifying that the installation has been field-checked and meets the requirements set forth above.
- d. The Town Manager or designee may issue a permit for such proposed outdoor lighting, if, after review of the plans and after consideration of the design characteristics of the lighting fixtures and lighting poles and bases, they are found to be in harmony with the site architecture design, the adjacent area and the neighborhood, will be deflected, shaded and focused away from adjacent properties; and will not be a nuisance to adjacent properties and traffic.
- e. All of the foregoing installations shall conform to the Florida Building Code.
- f. Lighting on properties designated H120 shall provide fixtures and shields to maintain light shed cut offs in accordance with regulations of the Department of Environmental Protection, specifically as it relates to properties fronting or adjacent to turtle nesting habitats



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- Sec. 90.63** **Miscellaneous elevations for seawalls, and groins**
90.63.1 The elevation for the top of shore end of all groins or other shore protective work shall be plus five (5) feet above mean low water.
- 90.63.3 The elevation for the top of seaward end of all groins and other shore protective work shall be plus two and one half (2 ½) feet above mean low water.
- 90.63.4 The elevation of the top of all seawalls fronting on the waters of Biscayne Bay, Indian Creek and Point Lake shall be plus five (5) feet above mean low water.
- Sec. 90.64** **Combined lots**
Where two (2) or more parallel adjoining and abutting lots under a single ownership are used, the exterior property lines so grouped shall be used in determining setback requirements. Provided, however, that no structure shall be constructed, altered or maintained on a single lot in any zoning district which does not conform with the setback requirements applicable to such lots, irrespective of the common ownership of abutting lots, unless and until a restrictive covenant running with the title to such lots, assuring obedience to setback requirements in a form acceptable to the Town Attorney or designee, shall first have been recorded in the public records of Miami-Dade County, Florida. Joined in such a restrictive covenant must be effected by all interested parties, including, but not limited to, dower, lien-holders, mortgagees, and all others claiming any right, title or interest in and to such real property.
- Sec. 90.65** **Boat storage**
No more than one (1) boat, not over twenty (20) feet in length may be parked temporarily on any lot in the H30A or H30B districts subject to the following conditions:
- a. Boats and places of parking shall be kept in a clean, neat and presentable condition.
 - b. No major repairs or overhaul work shall be made or performed on the premises.
 - c. Boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
 - d. The place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be within the required setback area, and no parking of boats shall take place on any public right-of-way.
 - e. The parking, storage or keeping of any boat or watercraft of any kind, or boat trailer, shall not be permitted for a period of more than four (4) hours unless they are fully enclosed within the confines of a garage.
 - f. Notwithstanding the time limitations set forth herein, boats stored temporarily on any lot in the H30A or H30B districts shall be removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.
- Sec. 90.66** **Temporary storage of campers and house trailers**
90.66.1 No house car, camp car, camper or house trailer, nor any vehicle or part of a vehicle designed or adapted for human habitation by whatever name known, whether such vehicle moves by its own power or by power supplied by a separate unit, which exceeds twenty (20) feet in length or eight feet (8) in height, shall be kept or parked on public streets or public property anywhere within the Town, nor on private property in the H30A or H30B districts, for more than twenty four (24) hours within a calendar week beginning at 12:01 a.m. Sunday and ending at 12:00 a.m. on Saturday.



90.66.2 No house car, camp car, camper, house trailer, or any similar vehicle shall be attached to any public or private external source of electricity, water, gas or sanitary sewer at any time, except that an electrical connection may be made for the sole purpose of recharging a vehicle's storage batteries.

Sec. 90.67

Emergency power generators

The following requirements apply to permanent and temporary emergency power generators located in all zoning districts:

1. Permit: The property owner must obtain a building permit for the installation of an emergency power generator.
 - a. The Town shall review all such permit applications to ensure such installations minimize the visual and acoustic impact on adjacent properties.
2. Special attention shall be paid to the placement of the generator, the use of sound attenuating materials, and the reasonable containment of sounds and exhausts, which will be created by the operation of any emergency power generator. The preferred placement shall be as follows: For all new construction, permanent emergency generators must be placed in the rear of the property; for residential structures existing as of September 1, 2006, permanent generators may be placed in the front of the house if placement in the rear is not feasible. In no instance shall generators be placed in the setbacks.
 - a. Screening: Emergency power generators that are not located within, or completely screened by a building, shall be screened from view when adjacent to or visible from a public right-of-way or from adjacent parcels of property. Screening may include the use of fences, walls, or hedges, or a combination thereof and such screening shall meet all relevant Code requirements.
 - b. Placement of temporary generators: Temporary emergency power generators shall be placed outdoors at least ten (10) feet from any opening or window.
 - c. Maintenance cycle: The generator's maintenance cycle run shall be permitted a maximum of once a week between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday only, and shall continue for no more than the manufacturer's recommended duration, but not to exceed thirty (30) minutes per cycle.
 - d. Allowed usage: Emergency power generators may only be operated for non-maintenance purposes whenever there is a power outage. Generators may not be used as a substitute for electrical power.
 - e. Code enforcement and removal: Generators, which are in violation of the provisions of this Section, shall be subject to immediate removal and code enforcement action.

Article VI

Signs

Sec. 90.68

General and miscellaneous provisions

- a. Scope: The provisions of this Division shall govern the number, size, location, and character of all signs which may be permitted either as a main or accessory use under the terms of this Division. No signs shall be permitted on a plot or parcel either as a main or accessory use except in accordance with the provisions of this Division.
- b. Purpose: This Division shall be known as the "Town of Surfside Sign Code." The Town Commission determined there was a need to amend



its sign regulations to address recent federal cases addressing sign regulation in the Eleventh Circuit Court of Appeals. The Town Commission found and determined that the Town's sign regulations were always intended to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, while meeting the need for signage that clearly identifies locations, advertises businesses, and otherwise communicates commercial and noncommercial messages recognizing that the sign regulations were designed to advance the governmental purpose of aesthetics, which has long been upheld by the state and federal courts.

Furthermore, as long ago as 1954, the U.S. Supreme Court recognized that "the concept of the public welfare is broad and inclusive," that the values it represents are "spiritual as well as physical, aesthetic as well as monetary," and that it is within the power of the Town Commission to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled," in *Berman v. Parker*, 348 U.S. 26, 33 (1954), which was followed by *State v. Miami Beach Redevelopment Agency*, 392 So. 2d 875 (Fla. 1980).

Because sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Assn of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and because the Town Commission found and determined that the Town's zoning regulations are required to regulate signs as provided by Sign Code 163.3202(2)(f), Florida Statutes, the Town Commission found and determined that this Sign Ordinance is consistent with all applicable policies of the Town's adopted Comprehensive Plan.

The Town Commission also found and determined that the Town has consistently adopted severability provisions in connection with its Code of Ordinances and Zoning Code, and that the Town wishes to assure that its severability provisions will be applied to its Zoning Code, including its sign regulations in Chapter 90 as provided in subparagraph d. The Town Commission recognizes that in several recent judicial decisions, the courts have failed to give full effect to severability provisions applicable to sign regulations, and expressed uncertainty over whether a local government's intent to apply the severability clause to certain factual situations despite the plain and ordinary meaning of the severability clauses.

The Town Commission is aware that the failure of some courts to apply severability clauses has led to an increase in litigation by billboard developers and other applicants seeking to strike down sign regulations in their entirety so that they may argue that their applications to erect billboards or other signs must be granted. Accordingly, the Town Commission desires that there be an ample and unequivocal record of its intention that the severability clauses it has adopted related to its sign regulations shall be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances, or other sign provisions are invalid or unconstitutional for any reason whatsoever.

The Town Commission further finds and determines that the Town has long allowed non-commercial speech to appear wherever commercial speech appears and that it has codified that practice through the adoption of a substitution clause in subparagraph "c" that expressly allows non-commercial messages to be substituted for commercial



messages. The Town Commission specifically intends that this substitution clause and past practice be applied so that its sign regulations can never be construed to impermissibly favor commercial messages over noncommercial messages, and desires to amplify this substitution clause in this Ordinance to bolster its effectiveness.

The Town further provides for the political expression of its residents, as required by *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), by allowing a permanent non-commercial sign to be posted in any residential zoning district.

- c. Substitution of noncommercial speech for commercial speech: Notwithstanding any provisions of this Division to the contrary, to the extent that this Division permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Division.
- d. Severability:
 - 1. Generally: If any part, Division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division.
 - 2. Severability where less speech results: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions on the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the Town, whether by subjecting currently exempt signs to permitting or by some other: .
 - 3. Severability of provisions pertaining to prohibited signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to 90-73, "Prohibited Signs," so that each of the prohibited sign types listed in that Section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
 - 4. Severability of prohibition on off premises signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance.
- e. *Definitions.*

Blade sign: small pedestrian signs typically supported by a decorative chain or bracket that project perpendicular from the face of the building, which are located above the storefront entry and are oriented to the pedestrian.



Cabinet or Box Sign: any sign, the face of which is enclosed, bordered, or contained within a box-like structure, frame, or other device.

Changeable Copy: a sign such as a movie marquee where slots are provided on a background for changeable letters to be added.

Community Interest Sign: a professionally prepared poster announcing an event of general public interest.

Construction Signs: a temporary sign identifying those engaged in construction or remodeling on a building site, including the developer, contractor, subcontractor, architect, engineer or artisans involved in the project.

Directory and Upper Floor Signs: a non-residential sign that lists the tenants of a building on one sign.

Flag: a piece of fabric with a color or pattern that represents a government, or other noncommercial organization or idea.

Grand Opening Banner: a sign, with or without a frame and with or without characters, letters, symbols or illustrations, made of cloth, fabric, paper, vinyl, plastic or other rigid material for the purpose of gaining the attention or persons announcing a grand opening.

Menu Holders: a sign located on a wall indicating food items, products, services or activities provided on the premises.

Monument Signs: free-standing signs located adjacent to the sidewalk independent of the building.

Murals: a graphic, artistic representation painted on a wall, not including graffiti, which contains no advertisement or relationship to any product, service or activity provided, offered or available on the premises.

Nonconforming Signs: a sign or advertising structure which was lawfully erected and maintained prior to the current provisions or this Code regulating signs, which by its height, type, square foot area, location, use or structural support does not conform to the Town's sign requirements.

Off-Premise Signs: any sign advertising a commercial establishment, activity, product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located. An off-premise sign is a principal use of the property in which it is located.

Pedestrian Sign: small signs, typically projecting signs supported by a decorative chain or bracket, which are located above the storefront entry, parallel to the sidewalk and are oriented to the pedestrian.

Political Sign: any sign which indicates the name, cause or affiliation of anyone seeking public office or which indicates any political issue.

Primary Occupancy Signs: the main sign used to identify a business. A primary sign is any sign painted on or attached to the face of the building including individually mounted letters, painted signs and awning signs.

Real Estate Signs: a temporary sign erected by the owner or agent indicating property which is for rent, sale or lease, including signs pointing to a property which is open for inspection by a potential purchaser (open house sign) or a sign indicating "shown by appointment only" or "sold."

Roof Sign: a sign erected over, across or on the roof of any building, which is dependent on the roof, parapet or upper walls of a building for support.



Sandwich or "A" Frame Sign: a movable sign not permanently secured or attached to the ground.

Sidewalk Café Signage: a sign located on an umbrella that is used as shelter for sidewalk tables.

Sign: any structure and all parts composing the same, together with the frame, background or support therefore, which is used for advertising or display purposes or any statutory, sculpture molding, casting or other objects used for advertising or display purposes, or any flags, bunting or materials used for display or advertising purposes, or for the purpose of attracting the attention of the public.

Sign Area: the square foot area enclosed by the perimeter of the sign structure. When a sign is composed of individual letters, symbols or logos only, the sign area is the area enclosed by a perimeter line (forming a single rectangle or square) enclosing all letters, symbols and logos. When a sign is a ground sign, the square foot area from the ground to the maximum height multiplied by the width equals the sign area.

Snipe Sign: a sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, walls, trash receptacles or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located. Legal notices required by law are exempt.

Temporary Signs: include a Grand Opening Banner, Community Interest Sign on Private Property, Construction Signs, Political Sign and Real Estate Signs. Temporary signs are allowed for a limited amount of time.

V-Box: a single triangular sign at one location that is at an angle of forty-five (45) degrees or less to each other.

Window Signs: any sign placed within a window facing the street.

Sec. 90.69

Sign Design Parameters

- a. All signs, unless otherwise exempt, shall be subject to review by the Design Review Board.
- b. Use of streets, waterways, sidewalks and other public property. Except as otherwise authorized by the Town Commission, no sign of any type shall be suspended across any public street, alley or waterway; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any curb, sidewalk, tree, light standard, utility pole, hydrant, traffic signal device, street sign and its pole, bridge, wall, or any other structure, which is within the property lines of any street, alley, waterway or other public property within the Town.
- c. Use of vacant lots, unoccupied buildings or temporary structures. Except as provided by Section 90.74 no sign of any type shall be suspended across any vacant lot, unoccupied building or temporary structure; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any vacant lot, unoccupied building or to any temporary structure within the Town.
- d. Removal of sign upon cessation of business. Any sign previously associated with a vacated premises shall either be removed from the premises by the owner or lessee not later than six (6) months from the time such activity ceases to exist, or such sign shall be altered or resurfaced by the owner or lessee within the same six (6) month period,



so that the sign no longer displays letters, numerals, symbols, figures, designs or any other device for visual communication that pertains to the activity formerly associated with the vacated premises. No occupational license shall be issued for a new business until all signs associated with the former business have been removed.

- e. Pest control or warning signs. All such signs shall be displayed prominently on the front lawn of property requiring this service. Signs shall not exceed a size of 8" by 10". The printed wording shall read horizontally only and shall contain only such language as is required by law or by reasonable safety precautions and a statement of the antidote to the insecticide used. The word "WARNING" shall occupy one half of the sign and the name and address of the company performing the service only one fourth of the sign, it being intended that the word "WARNING" shall be most prominent. Further, it shall be required that such sign be removed from the premises no later than twenty four (24) hours after the warning is no longer required.
- f. Definition of frontage. For the purpose of determining total sign area, running foot of frontage shall include that side of the building or lot that faces on a public street. When the building or lot is on a corner, the footage of each street shall be included in determining the total allowable frontage.

Sec. 90.70

Sign Permits

- a. Permit required. Except as provided in this Code, no permanent or temporary sign shall be erected, constructed, posted, painted, altered, maintained, or relocated until a permit has been issued by the Town. Before any permit is issued, a written application, in the form provided by the Town, shall be filed, together with such drawings and specifications as may be necessary to fully advise the Town with the location, construction, materials, manner of illuminating, method of securing or fastening, the number of signs applied for, the consent of the property owner, and the wording of the sign. Upon the submission of an application, staff shall have ten (10) days to determine whether it is complete. If staff finds that the application is not complete, they shall provide the applicant with written notice of the deficiencies within the ten (10) day period. Upon resubmission of the application, staff shall have five (5) additional days to determine whether the applicant's revisions are sufficient to complete the application. If they are not, staff will again inform the applicant of any remaining deficiencies in writing. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed "as is." All signs that are electrically illuminated shall require a separate electrical permit and inspection.
- b. Code requirements. Structural and safety features and electrical systems shall be in accordance with the requirements of the Town's adopted Building Code. No sign shall be approved for use unless it has been inspected and found to be in compliance with all the requirements of this chapter and applicable Codes.
- c. Permit review. Unless otherwise exempt, the Design Review Board shall review the sign to determine if the proposed sign is in compliance with the design review criteria.
- d. Failure to commence. Every sign permit issued by the Town shall become null and void, if installation is not commenced within ninety (90) days from the date of such permit. If work authorized by such permit is



suspended or abandoned for ninety (90) days any time after the work is commenced, a new permit including Design Review Board approval shall be first obtained to do so, and the fee will be the full amount required for a new permit for such work.

- e. Revocation. The Town may suspend or revoke, in writing, a permit issued under provisions of this chapter, whenever the permit is issued on the basis of a misstatement of fact or fraud. The written revocation shall describe the appeal process. The Town shall send the revocation by certified mail, return receipt requested, to the sign owner. Any person having an interest in the sign or property may appeal the revocation, by filing a written notice of appeal with the Town Commission within fifteen (15) days after receipt of the written notice of revocation. The Town Commission shall hear the appeal within thirty (30) days after the date of receiving the written notice of appeal.

Sec. 90-71

Permanent Signs by District

90.71.1

SD-B40 Zoning District

- a. Area.
 - 1. The total area of all exterior wall signs for any building in the SD-B40 zoning district shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, a sign up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however shall the total sign area for any operating enterprise exceed one hundred fifty (150) square feet, and no single sign in this district shall exceed forty-five (45) square feet in area.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises.
- c. Prohibited word content. Signs may not include the following:
 - 1. Any reference to price, except as provided in regards to "Window Signs."
- d. Miscellaneous.
 - 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in this district stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 - 1. With the exception of theater marquees and V-Box signs, no sign shall be erected so that any portion thereof shall project over a dedicated street or sidewalk or so that any portion thereof shall project more than five (5) feet from any main building wall.
 - 2. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located; provided, however, that signs may be installed on the rear walls of commercial buildings in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6, in the Town. Such signs shall be limited to a maximum size of twenty-five (25) square



feet and may be illuminated by a bulb with an angle reflector type shield. These signs shall not be included in computing maximum sign area for a given operating enterprise.

- f. Window signs.
1. It shall be unlawful for temporary signs of any nature to be attached by any: to glass windows or doors, or to be mounted within twelve (12) inches of the glass window or door towards which they face, except as provided in this subsection.
 2. Temporary paper signs announcing a licensed going-out-of-business sale or future business shall be permitted to be displayed within glass display windows of such business establishments not to exceed twenty (20) percent of the area of the glass.
 3. Temporary signs, professionally lettered, may be displayed within a window providing they are more than twelve (12) inches from the glass surface they are facing, and providing that in total they do not exceed in area twenty (20) percent of the area of the glass window they are facing. A temporary sign not exceeding one hundred forty four (144) square inches may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall be not more than one (1) such sign per window or door. Such sign shall not be maintained for more than fourteen (14) calendar days.
 4. Signs, not in excess of six (6) square inches, listing price, may be attached to items displayed in display windows.
 5. Signs of a permanent nature may be applied to the inside or outside surface of a glass window or door or displayed within twelve (12) inches of a glass window or door, provided that they are done in a professional manner, that the lettering does not exceed eight inches in height and that they give only the name of the establishment and the nature of the business, except sit-down restaurants may display a menu in their window or adjacent to their front door which does not exceed one and one half (1 1/2) square feet in size. Lettering not more than two (2) inches in height may be applied to either side of one window or glass door per business stating hours of operation. No other type of sign stating hours of operation or "open," "open for business," "closed," or similar signs may be displayed except as provided. Such signs shall not exceed twenty (20) percent of the area of the glass window or door in which they are displayed. In addition, each business establishment may display, at a single location on a glass window or door, not over four (4) ancillary decals, signs or logos, indicating national charge cards which are accepted therein, provided the total area of all such decals, signs or logos so displayed does not exceed one hundred and forty-four (144) square inches. The area of such decals, signs or logos shall not be included in the twenty (20) percent limitation above. Not more than one (1) primary sign may be displayed in any one window or door. All such signs shall require a permit approved by the Town Manager or designee.
- g. Lettering on awnings. Lettering shall be prohibited on awnings, canopies or valances projecting over a dedicated street or sidewalk; except that the side, perpendicular to the street, may bear the trade name of the establishment in letters not higher than five (5) inches. Where an existing awning, canopy or valance is being replaced or recovered or



substantially repaired, a permit is required from the Town, and the awning, canopy or valance must conform to this Section.

- h. V-Box signs. Any ground floor business in the SD-B40 district may attach a single sign, commonly known as a V-Box sign, of triangular section, containing a completely concealed fluorescent tube, to a permanent canopy over the sidewalk. Such sign shall be mounted perpendicular to the face of the building to which the canopy is attached, with an end (smallest side of the sign) facing the building. Such sign shall not exceed four and a half (4 1/2) feet in length and twelve (12) inches in depth, and shall allow at least an eight (8) foot clearance above the pavement. The sign shall carry only the business name.
- i. Sign for upper floor tenants. Each upper floor tenant shall be entitled to erect a single sign, not over one hundred eight (108) square inches in size, at the entrance or lobby of the building which provides egress to such upper floor. In addition, each upper floor tenant may paint a sign on one upper floor window of this establishment, which indicates the name of his business, provided such sign meets all of the requirements of this Section.

90.71.2

H30C, H40, MU and H120 Districts

- a. Area.
 - 1. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however, shall total sign area on any single operating enterprise exceed one hundred fifty (150) square feet, except as otherwise provided in this Code. For multi-family dwellings in the H30C or H40 districts, total signage shall not exceed seventy-five (75) square feet and no single sign shall exceed fifty (50) square feet.
 - 2. Such signs shall be attached to the main facade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet, or shall be erected on a metal pole or reinforced concrete post, provided that no part of such sign shall project over a dedicated street or sidewalk. Any sign in need of replacement shall conform to this Section.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises, except as otherwise provided in this Code.
 - 3. The total allowable area for all supplemental signs for any establishment hereunder reading "Vacancy," "Private Beach," "Swimming Pool," "Cabanas," "Office," "Air Conditioning," "Cocktail Lounge," "Coffee Shop," "Dining Room," "Restaurant" and other such wording shall be limited to eight (8) square feet for each main building, and such sign area shall not be included in computing the maximum sign area for the lot. In permitting the advertising by visible signs from the outside of buildings or structures presently zoned so as to permit the uses described herein, such signs shall be dignified in character, shall be restricted to the wording described above, and



no single sign shall exceed three (3) square feet in size; except, in the H120 district, a hotel with a restaurant may display a supplemental sign, not to exceed five (5) square feet in size, containing the name of the restaurant. Any such sign shall be included in the total eight (8) feet limitation.

- c. Prohibited word content. Signs may not include the following:
 1. Any reference to rates.
 2. Identification of a business conducted within hotels, apartment houses or similar structures, other than those permitted under supplemental signs, is not to be advertised by any sign visible from the outside of such building or structure in which such business is located.
- d. Miscellaneous.
 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in these districts stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 1. No sign shall be erected so that any portion thereof shall project over a dedicated street, alley or sidewalk or so that any portion shall project more than five (5) feet from any main building wall.
 2. One (1) sign may be erected on a metal pole with an area of not more than forty-five (45) square feet, including any supplemental signs; provided that no part of such sign shall project over a dedicated street, alley or sidewalk.
 3. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located.
 4. Signs not over four (4) square feet in size may be erected at each exit or entrance of parking lots serving buildings in these districts, and such signs may be illuminated by indirect lighting only. Lettering on these signs shall be limited to the name and address of the apartment or hotel, the word "Parking," and the words "For Guests Only" or "Private Parking," and designation as to whether it is an entrance or exit.
 5. Buildings on the east side of Collins Avenue abutting the beach walking path shall be required to provide emergency signage for the purpose of identifying the names and addresses of the building. The purpose is to provide Fire trucks, police patrol cars, ambulances, and other emergency vehicles knowledge of their location at all times to quicken response time in critical situations. The signage shall be subject to the following limitations:
 - a. Maximum size of eighteen (18) inches long by twenty-four (24) inches wide
 - b. Material shall be reflective to be clearly visible at night
 - c. Material shall be weatherproof
 - d. Signage shall be on a free-standing pole



- e. The address lettering and numbers shall be no more than two (2) inches in height
- f. The condominium name shall be no more than one (1) inch in height

6. Monument Signs

- a. Monument signs shall be permitted in the H30C, H40, MU and H120 districts and are subject to the following restrictions:
 - 1. One (1) sign per street frontage
 - 2. Maximum sign area is twenty-five (25) square feet
 - 3. Maximum height is five (5) feet
 - 4. Signs shall maintain a five (5) foot setback from all property lines and no portion shall be permitted to project within this five (5) foot setback area.

90.71.3 H30A and H30B Districts

- a. Home Office signs shall not be allowed.
- b. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted.
- c. Such signs shall be attached to the main façade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet. Any sign in need of replacement shall conform to this Section.

Sec. 90.72 Exempt Signs

90.72.1 The following signs are exempt from permitting requirements:

- a. Open/closed sign
- b. Hours of operation and credit card information, provided that sign does not exceed two (2) square feet
- c. Real estate signs, however if they are found to be in conflict with the provisions of the Code, the Town Manager or designee shall request the removal of the sign.
- d. Temporary signs

Sec. 90.73 Prohibited Signs

90.73.1 No sign shall be erected, constructed, or affixed in violation of the provisions of these regulations, and any sign not specifically provided for and permitted by these regulations shall be prohibited. None of the following signs shall be constructed, erected, used, operated or maintained in the Town:

- a. Billboards
- b. Temporary sign or sandwich sign except as permitted under 90-74.
- c. Off-premises signs
- d. Signs which simulate, copy or imply any official traffic signal or police caution device.
- e. Signs that contain obscene matter, or contains wording which violates any federal, state or county statute, ordinance or rule and it shall be unlawful for any person to display upon any wall or other advertising structure any



matter which is obscene or wording which violates any federal, state or county state ordinance or rule.

- f. Signs that display intermittent lights, to move or revolve.
- g. Signs which contains wording which constitutes fraudulent or misleading advertising.
- h. Sign which have spinning devices, or strings of spinning devices, or other similar devices.
- i. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.
- j. Roof signs
- k. Pennants, banners, streamers, balloons and all other fluttering, spinning or similar type signs and advertising devices, except for national flags.
- l. Neon signs

Sec. 90.74 Temporary Signs

90.74.1 Real Estate Signs

- a. No more than one (1) real estate sign per occupancy frontage shall be permitted until a project or tenant space is leased or sold in the SD-B40 district.
- b. Maximum sign area per sign is one (1) square foot by one and a half (1 1/2) square feet in the Business District (SD-B40), and shall be located flat against the building wall or within a window, and shall not project above the eave line.
- c. The sign shall be unlighted.
- d. Lots in the residential districts may mount the sign on a free-standing stakes, located outside of any sight visibility triangle so no portion of the sign extends across the property line. Such sign shall not exceed one (1) square foot by one and a half (1 1/2) square feet in size and shall not exceed thirty-six (36) inches in height above the adjacent ground. The face of the sign shall be a sound and safe material that is securely fastened to a wood or metal stake of sufficient strength.
- e. All real estate signs shall contain a white background with black text. There shall be no pictures or graphics on the sign.

90.74.2 Political Signs

- a. Signs shall not be erected or displayed more than ninety (90) days prior to the primary or general election at which the candidacy or issue being advertised is decided and all such signs shall be removed within seven (7) days after the aforementioned election.
- b. No more than one (1) sign for each candidate or issue is permitted on any developed or undeveloped property under single ownership or tenancy.
- c. No sign shall be closer than ten (10) feet from any lot line.
- d. Political signs shall not be larger than eighteen (18) inches by twenty-four (24) inches in size in the residential districts and four (4) square feet in the Business District (SD-B40). Political signs in the Business District (SD-B40) shall be located flat against the building wall or within a window, and shall not project above the eave line.

90.74.3 Removal

Notwithstanding the time limitations set forth herein, all temporary signs shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines



that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a temporary sign to remain at a site for a period in excess of such time limitations.

Sec. 90.75

Non-Conforming Signs

Any additional development of a site, or change of use, occupancy, tenant, or sign copy (with the exception of window signs) shall require that legally established, nonconforming signs shall be removed and replaced with a conforming sign. Nonconforming signs must conform to these regulations or be removed within one (1) year of the date the sign became nonconforming. A sign must have had written Town approval to be considered nonconforming. Signs not in conformance with the Code which were installed without written Town approval are illegal and must be removed or replaced immediately. Illegal signs are subject to removal by the Town at the cost of the owner and subject to code enforcement action.

Sec. 90.76

Sign Construction and Maintenance

- a. All signs shall be professionally constructed of high-quality, durable material in accordance with the Florida Building Code.
- b. Sign switches conduits and panel boxes shall be concealed from view.
- c. Signs shall be designed to be vandal and weather resistant.
- d. Signs shall be properly maintained so that they are in proper working order and do not endanger public safety. Damaged or defective signs shall be repaired within thirty (30) days.
- e. When a sign is removed for example due to replacement, or termination of the lease, the tenant or owner shall fill and paint any holes caused by the removal of the sign.
- f. All exterior electrical outlets for signs shall terminate in a galvanized or plastic box with a blank cover, which shall be flush with and not protrude beyond the finished surface of the exterior wall. Transformer boxes and other accessory equipment for any sign shall be placed so as not to be visible from the street level. Wooden signs shall not have electric lights or fixtures attached in any manner.
- g. Illuminated signs, or illumination in show windows, display windows and displays, in or upon any building or structure shall have the source of light concealed from view from the exterior of the building or structure, except that where channel letters or figures are used for any sign, the illumination thereof may be visible if recessed within the depth of the channel. Intensities of illumination in all cases shall be approved by the electrical inspector of the Town before issuance of the sign permit.
- h. Only lighting of fixed intensity shall be supplied to signs while illuminated and the use of any blinking, moving or flashing light or lights, or similar device, in window areas or store fronts is prohibited, except decorative flashing illumination may be used between December 10 and January 5.



Article VII Off-Street Parking and Loading

Division I Off-Street Parking

Sec. 90-77 Off-street parking requirements.

90.77.1 Except as otherwise provided herein, when any building or structure is hereafter constructed; or structurally altered so as to increase the number of dwelling units or hotel/motel rooms; to increase its total commercial floor area; or when any building or structure is hereafter converted to any of the uses listed in subsection (b) of this Section, off-street parking spaces shall be provided in accordance with the requirements of subsection (b) of this Section, or as required in subsequent sections of this Article.

90.77.2 The number of off-street parking spaces that shall be required to serve each building or structure and use shall be determined in accordance with the following table:

1. H30A and H30B districts: 2 spaces minimum.
2. H30C, H40 and H120 Districts:

Type of Residential Unit	Minimum Space Requirements
Single-family or Two-family	2 spaces
Multi-family – Efficiency and 1-bedroom	1.5 spaces
Multi-family – 2-bedroom and 3-bedroom	2.0 spaces
Multi-family – 4-bedrooms or more	2.25 spaces

90.77.3 For projects of greater than sixty (60) dwelling units, parking spaces may be provided as tandem spaces, provided, however, a minimum of one (1) unencumbered parking space, tandem or regular, must be provided for each dwelling unit and valet parking service shall be provided at all times. One visitor parking space for each fifteen (15) dwelling units unless tandem parking with valet services is provided in which case one (1) visitor space for each twenty (20) units is required.

90.77.4 Parking by use
a. Lodging

Type of Use	Space Requirements
Hotel and motel	1 space for each room
Suite-Hotels	1.25 space for each room

b. Place of Public Assembly

Nature of use of space	Space Requirements
Where seats and/or benches are provided	1 space for every 4 seats or 1 space for every 6 linear feet or part thereof of bench
Where fixed seats are not provided	1 space for each 50 square feet of non-administrative and congregation space



c. SD-B40 District

Type of Commercial Use	Space Requirements
Grocery, fruit or meat market	1 space each 250 gross floor area
Retail store or Personal service establishment	1 space each 300 gross floor area
Office or Professional services use, except Financial institutions	1 space each 400 gross floor area
Medical or Dental uses	1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises	1 space for every 4 seats
Financial institutions	1 space each 300 gross floor area
Educational services	1 space per classroom, plus 1 per 250 gross floor area

Sec. 90.78

Interpretation of these requirements

- a. The parking required herein is in addition to space required for the loading and unloading of trucks or other vehicles used in connection with a business, commercial, or industrial use.
- b. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- c. The parking space requirements for a use not specifically listed in this Section shall be the same as for a listed use of similar characteristics of parking demand generation.
- d. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- e. Whenever a building or use, constructed or established after the effective date of this Article, is changed or enlarged in floor area, number of dwellings or sleeping units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- f. Where a place of public assembly, as defined in Section 90-2 of this Code, has been in existence for at least ten (10) years and a variance from the parking requirements of this chapter is requested, hardships pertaining to the variance request shall not be considered self-created for purposes of consideration of the merits of the variance request.

Sec. 90.79

Restricted and prohibited parking

90.79.1

Off-street parking spaces in H30A and H30B districts shall not be located in a required front yard except as follows:

1. Driveway space for access to parking areas or garages located in a required front yard.
2. It shall be unlawful to park vehicles of any type in private driveways or front yards in said districts unless they belong to the occupant of such residence, a member of his immediate family, a resident of the household residing on the property, or a bona fide guest or visitor thereof.
3. When an automobile vehicle or motorcycle has been parked in violation of this Section intermittently or continuously during a period of three (3) weeks



and such vehicle is registered in the name of a person other than to the occupant of the property, a member of immediate family or a resident of the household residing on the property, it shall constitute in evidence a presumption that such vehicle is unlawfully parked in violation of this Section.

4. No trailer of any type may be kept in any required yard continuously for more than seventy-two (72) hours, except as may be provided in Sections 90-64 and 90-65. All trailers must display a valid license plate and registration decal as required by state law, be in operating condition and be supported by fully inflated tires on functioning wheels.

90.79.2 Where off-street parking spaces serve an existing permitted structure located in the H30C, H40 or H120 districts and occupy all or portions of the required front yard, such use may be continued until the existing structure is removed.

90.79.3 No motor vehicle, as defined by state law, shall be kept in any unpaved area of any lot or parcel in the Town.

90.79.4 No motor vehicle, as defined by state law, which is not in operating condition or which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, shall be kept in any paved area of any lot for more than thirty (30) days.

90.79.5 The off-street parking of trucks and other commercial vehicles, in excess of what is commonly known as a three-fourth-ton truck or vehicle, or any other equipment used for commercial purposes, is prohibited in anywhere in the Town, except in the SD-B40 wherein the vehicle is in the process of making an expeditious delivery, rendering services to the premises (such as electrical, plumbing or yard work) or continuously and completely enclosed within the confines of a permitted garage.

Sec. 90.80 Joint use and off-site facilities

90.80.1 All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained not to exceed three hundred (300) feet from the building served.

90.80.2 Where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a deed restriction or covenant thereby assuring their retention for such purposes shall be properly drawn and executed in recordable form by the parties concerned, approved as to form by the Town Attorney, and shall be filed with the application for a building permit.

Sec. 90.81 Design standards

90.81.1 *Minimum area.* For the purpose of these regulations, except as provided below, off- street parking spaces shall not be less than nine (9) feet by twenty (20) feet, exclusive of driveways, for the temporary storage of one (1) automobile. Aisles shall have dimensions as set forth in the Zoning Code of Miami-Dade County entitled "Minimum Parking Stall Dimensions," except as may be set forth below. Such parking spaces shall be connected with a street or alley by a driveway which affords ingress and egress without requiring another automobile to be moved. Handicapped parking spaces shall be consistent with Florida Accessibility Code requirements.

90.81.2 In all instances, adequate interior driveways and ingress and egress driveways shall be provided to connect all parking spaces with a public street or alley.



Where a parking space heads into and abuts a sidewalk, the paved length shall be curbed in order to prevent extension of the vehicle over the sidewalk. Required parking shall comply with these provisions and such parking cannot be placed in dedicated or official rights-of-way. Private, noncommercial off-street parking shall be reserved exclusively for the tenant or owner and their customers and employees, unless otherwise approved as a result of a public hearing.

90.81.3 *Drainage and maintenance.* Off-street parking facilities shall be drained to prevent damage to abutting property and/or public streets and alleys and surfaced with a minimum of at least one (1) inch of asphalt concrete or a wearing surface on a six (6) inch compacted lime rock base. Off-street parking areas shall be maintained in a clean, orderly, and dust free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

90.81.4 *Separation from walkways and streets.*
1. For properties designated H30A and H30B and for properties designated H40 east of Harding Avenue, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a minimum five (5) foot planted strip.
2. For properties designated H40, H30C, and H120, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device.

90.81.5 *Entrances and exits.* Not more than one entrance or exit, not exceeding twelve (12) feet in width, shall be permitted for every fifty (50) feet of width of the parking lot.

90.81.6 *Marking.* Parking spaces in lots of more than ten spaces shall be marked by a painted line or other: to indicate individual spaces; a curb or stop shall be provided at each parking space. Signs or markers shall be used as necessary to ensure efficient operation of the lot.

90.81.7 *Lighting.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. As provided in Section 90-61, the lighting shall be installed, maintained and regulated so as to reflect the light away from adjoining property and avoid annoyance to such premises.

90.81.8 *Screening.* Off-street parking lots with capacity for six (6) or more vehicles shall provide along the lot lines, except for ingress and egress, a visual screen with a height of not less than two (2) feet or more than three (3) feet. Such screen shall consist of a compact evergreen hedge.

90.81.9 *Extensions in certain districts.* Underground facilities in all districts except H30A and H30B district used primarily for off-street parking spaces may extend into the side and rear yards to the property lines, provided the top surface of such extensions is not more than five (5) feet above grade. However, where such extensions are used for driveways leading to building entrances, the top surface of such extensions shall not be more than eight (8) feet above grade. In all cases the front yard setback shall be landscaped in accordance with the landscape requirements of this Code.

Division II

Off-Street Loading

Sec. 90.82

Off-street loading requirements

Except as otherwise provided in this chapter, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by twenty-five (25) percent or more, or any building is hereafter converted for



the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3 and subsequent Sections of this Article.

Column 1 Use or Use Category	Column 2 Floor area as defined in 'Definitions', in Square Feet	Column 3 Loading Spaces Required in all Districts
Business, Commercial	10,000 - 60,000	1
Office Building	Greater than 60,000	2
Multi-family Dwelling Building	20,000 - 100,000	1
Hotel or Motel	Greater than 100,000	2

Sec. 90.83 Interpretation of the chart

The loading space requirements apply to all districts but do not limit the special requirements which may be imposed in connection with other Articles of this chapter.

Sec. 90.84 Design standards

90.84.1 *Minimum size.* For the purpose of these regulations, a loading space is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum width of twelve (12) feet, a minimum depth of thirty (30) feet, and a vertical clearance of at least fourteen and a half (14 1/2) feet.

90.84.2 *Drainage and maintenance.* Off-street loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with at least one (1) inch of asphalt concrete as a wearing surface on a six (6) inch compacted lime rock base.

Article VIII Landscape Requirements

Sec 90.85 General

90.85.1 Purpose and intent.
The general purposes of this Section are as follows:

1. To encourage the establishment of a functional landscape and improve the aesthetic quality, thereby promoting the health and general welfare of its citizenry in the Town of Surfside;
2. To create and enhance the aesthetic subtropical character and identity distinctiveness of the Town of Surfside;
3. To design landscaping to enhance architectural features, relate structure design to the site, visually screen sites and unsightly views, reduce noise impacts from major roadways and incompatible uses, strengthen important vistas and reinforce neighboring site design and architecture,
4. To prevent the expansion of the listed pest plant species by prohibiting the use of noxious exotic plants which invade native plant communities;
5. To promote the use of more wind tolerant trees and proper horticultural planting methods in order to maintain a more sustainable landscape;
6. To promote Xeriscape principles through the use of drought-tolerant landscape species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and non-potable water supplies and restrictions on the amount of lawn areas;



7. To utilize landscape material, specifically street trees, to visually define the hierarchy of roadways, and to provide shade and a visual edge along roadways;
8. To prevent the destruction of the Town's existing tree canopy and promote its expansion to be valued and preserved for present and future generations;
9. To provide for the preservation of existing natural plant communities and re-establish native habitat where appropriate, and encourage the appropriate use of native plant and salt tolerant plant material in the landscape;
10. To promote the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and the channeling of breezes, thereby helping to offset global warming and local heat island effects through the added absorption of carbon dioxide and reduction of heat islands;
11. To contribute to the processes of air movement, air purification, oxygen generation, ground water recharge, and stormwater runoff retention, while aiding in the abatement of noise, glare, heat, air pollution and dust generated by major roadways and intense use areas;
12. To improve the aesthetic appearance of the Town through the use of plant material, thereby protecting and increasing property values within the community;
13. To promote the concept of planting the right tree or plant in the right place to avoid problems such as clogged sewers, cracked sidewalk and power services interruptions;
14. To provide the physical benefits of using plant material as a function and integral part of the Town of Surfside's development;
15. To provide minimum standards for landscaping new developments or for redevelopment;
16. To promote water conservation and vegetation protection objectives by providing for:
 - a. The preservation of existing plant communities pursuant to the requirements of the Miami-Dade's Tree Preservation and Protection Ordinance;
 - b. The reestablishment of native plant communities;
 - c. The use of site-specific plant materials; and
 - d. The implementation of Xeriscape principles as identified in *South Florida Water Management District's Xeriscape Plant Guide II*, as amended, and as provided by law.

90.85.2

Definitions.

Accessway: a private vehicular roadway intersecting a public right-of-way.

Applicant: the owner or the authorized agent of the subject property.

Berm: a linear earthen mound measured from the crown of the road or abutting finish floor elevation and has a maximum slope of three (3) to one (1). The berm shall consist of clean fill composed of planting soil.

Buffer, perimeter landscape: an area of flat a grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.



Canopy: the upper portion of a tree consisting of limbs, branches and leaves.

Clear Trunk: the distance between the top of the root ball along the vertical trunk or trunks of a tree to the point at which lateral branching or fronds begin.

Clear Wood ("Gray Wood"): the portion of the palm trunk which is mature hardwood measured from the top of the root ball to the base of green terminal growth or fronds.

CPTED: the acronym Crime Prevention through Environmental Design; design approach to reduce crime and fear of crime by creating a safe climate within a building environment.

Diameter Breast Height (DBH): the diameter of the tree trunk(s) measured at four and one half (4 1/2) feet above grade.

Disturbed land/ground: any land where the original natural vegetation has been removed, displaced, overtaken or raked.

Functional Landscaping: the combination of living and nonliving materials that, when installed or planted, creates an ongoing system providing aesthetic and environmental enhancement to a particular site and surrounding area.

Groundcover: a dense, low-growing plant, other than turf, that, by the nature of its growth characteristics completely covers the ground and does not usually exceed two (2) feet in height.

Hedge: a dense row of evenly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Irrigation: the method of supplying plant materials with water other than by natural rainfall.

Landscape/Landscaping:

1. When used as a noun, this term shall mean living plant materials such as grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.
2. When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Mulch: organic, arsenic free, material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and enrich the soil.

Multi-trunk Trees: a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.

Native habitat: an area enhanced or landscaped with an appropriate mix of native tree, shrub and groundcover species that resembles a native plant community in structure and composition or is naturally occurring.

Native Plant Community: a natural association of plants dominated by one (1) or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Surfside.



Native Plant Species: native plant species shall be those plant species indigenous to the ecological communities of South Florida, as indicated on lists provided by Town of Surfside, or that can be scientifically documented to be native to South Florida.

Open Space: all pervious landscape planting areas of the site.

Overall Height: the height measured from the ground to the bend of the top most branch of the tree. Overall height on palms: the measurement from the ground to the bend of the topmost frond.

Pervious areas: mean any portion of the ground unobstructed by a non landscape planting surface which prevents or slows down the natural seepage of water into the ground.

Planting Soil/Topsoil: a medium composed of fifty (50) percent sand and fifty (50) percent muck. Palm planting soils shall compose of no more than eighty (80) percent sand and remainder soil consisting of muck. It must be clear and free of construction debris, weeds and rocks, with a PH between six and one half (6 1/2) and seven (7).

Redevelopment: any proposed expansion, addition, or façade change to an existing building, structure, or parking facility. Redevelopment may also mean any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development. Exception to this definition, single family dwelling redevelopment would be considered when seventy-five (75) percent or greater of the existing structure is knocked down.

Shrub: a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Site-Specific Plant Materials: the use of plant species selected to minimize supplemental irrigation, fertilization and pest control.

Town: the department or division of the Town of Surfside government that the Town Manager has designated to enforce the Landscaping requirements of this Section.

Tree: a self-supporting, woody perennial plant, usually with one vertical stem or main trunk, which naturally develops a distinct, elevated crown and provides, at maturity, natural characteristics of the species.

1. Tree, Dicotyledonous (Dicot) is a tree having a woody stem and branches and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.
2. Tree, Monocotyledonous (Monocot) is a palm or a tree having fronds with parallel venation and no true woody bark with a minimum overall natural height of ten (10) feet at maturity.

Tree Abuse:

1. Hat racking, flat-cutting the top of a tree, severing leader or leaders of a tree.
2. Pruning that reduces the total height or spread of a tree canopy by more than thirty (30) percent in one year.
3. Cutting upon a tree which destroys its natural habit of growth.
4. Pruning that leaves stubs or results in a flush cut or splitting of limb ends.



5. Peeling or stripping of bark or the removal of bark to the extent that if a line is drawn at any height around the circumference of the tree, over one third (1/3) of the length of the line falls on portions of the tree where the bark remains.
6. The use of climbing spikes, nails or hooks with the exception for the purposed of total tree removal.
7. Pruning that does not conform to the standards set by the American National Standards Institute (ASI A300), as amended, with the exception of palm pruning which shall allow no pruning of fronds above the horizontal plane.
8. Using nails or other piercing devices for the purpose of attaching signage or any objects to a tree.
9. Girdling of trees by guying, staking, support, string trimmers, or non-removal of planting materials from the root balls.
10. Lawn mower string trimmer or deck damage inflicted on any portion of a tree.
11. Vehicular damage inflicted causing bark removal, tree leaning and/or destruction. Also, any damage and/or compaction of the roots by vehicular usage.
12. Structures being placed or constructed within a tree.
13. Utilizing any portion of a tree as a fence or similar structural support.
14. The use of oils, chemicals or other materials poured on the roots and/or trees. Also, the painting of trees with paint and/or other similar material.

Turf: the upper layer of soil matted with roots of grass and covered by viable grass blades.

Vegetation: angiosperms, gymnosperms, ferns and mosses.

Vehicular Encroachment: any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular Use Area (VUA): an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Vine: any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

Xeriscape: a landscaping method that maximizes the conservation of water by use of site-appropriate plants and an efficient watering system.

Sec 90.86

Landscape permit plans

90.86.1

All buildings, structures, new developments, redevelopment and changes of use requiring a permit shall require submittal of a landscape and irrigation plan. Landscape and irrigation plans shall be prepared by a State of Florida registered Landscape architect. Landscape plans for H30A and H30B may be prepared by the owner of the property or a representative thereof, provided it meets the requirements per this Code. The use of a Landscape architect is encouraged.

90.86.2

All landscape plans shall meet the following requirements:



1. Shall be of the same scale as the site plan, but no smaller than one (1) inch equals fifty (50) feet. Recommended scale to be one (1) inch equals twenty (20) feet.
2. Location, condition, number, names, sizes, DBH and disposition of all existing trees and vegetation, to be preserved, relocated or removed. Also, provide all existing native plant communities to be preserved, relocated or removed.
3. Location and outline of existing buildings and site improvements to remain.
4. Location, condition, names, sizes, DBH, and disposition of existing trees, hedge, and site improvements along any abutting properties within twenty-five (25) feet of the property lines.
5. Location of all proposed or existing buildings and site improvements including but not limited to; parking spaces, access isles, drive ways, sidewalks and other vehicular use areas to remain or be removed.
6. A proposed plant list by symbol, quantity, required specifications, native or non-native, drought tolerance, salt tolerance, and botanical and common names. Also, the plant list must be indicated on all planting plan sheets.
7. A landscape calculation table indicating the minimum required and provided comparisons of the proposed plant material. Also, providing the gross and net acreages, buffer lengths, percentages of landscaping in the VUA, pervious area, street lengths, percentages of sod, native/drought tolerant percentages and landscape material size requirements.
8. Location and labeling of existing and proposed site lighting. Additionally, provide a minimum of fifteen (15) feet separation from the required or existing shade trees and seven and one half (7 1/2) feet from palms and small trees.
9. Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required seven and one half (7 1/2) feet clearance from all landscape material to the front and sides with four (4) feet clearance from the rear.
10. Location of existing and proposed easements, right of ways, drainage structures, overhead utility wires, underground utilities, above ground electrical elements, and transformers.
11. Location and details including type, height, color, and additional embellishments of walls, fences, gates, and signs.
12. All planting details and staking details, including but not limited to planting/staking specifications, general notes and tree protection barricade detail.
13. Existing or proposed water bodies and retention areas indicating the required four (4) to one (1) slopes.
14. Such other information that may be required to give a complete understanding of the proposed plan.

90.86.3

The irrigation plan shall meet the following requirements:

1. The same scale of the site plan, but no smaller than one (1) inch equals fifty (50) feet.
2. Location of existing trees, vegetation and native plant communities to remain, if applicable.
3. Location of existing buildings, paving, and site improvements to remain.



4. Location of proposed buildings, paving, site improvements, and water bodies.
5. Main location with sleeves, size and specifications.
6. Valve location, size and specifications.
7. Pump location, size and specifications or water source.
8. Backflow prevention device type and specifications.
9. Controller locations and specifications.
10. Zone layout plan (minimum scale 1" = 20'):
11. Provide one hundred (100) percent coverage and one hundred (100) percent overlap.
12. Indicating head-type, specifications and spacing
13. Indicate location and details of rain sensor, second water meter, and rainwater citrons; and
14. Indicating methods used to achieve compliance with Xeriscape principles as required by § 166.048 F.S.

Sec. 90.87

Installation of landscaping and irrigation

All landscaping and irrigation shall be installed according to accepted horticultural planting procedures with the quality of plant materials as hereinafter described, including:

1. Planting soil/topsoil shall be of the minimum quality as specified in the plant materials section of this Code. All trees, palms, shrubs, and ground covers shall be planted with a minimum of twelve (12) inches or two (2) times the root ball of planting soil around root ball. A minimum of three (3) inches of shredded, approved arsenic free, organic mulch or groundcover shall be installed around each tree planting for a minimum of eighteen (18) inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover planting. The use of mulch obtained from Melaleuca, Eucalyptus, or other invasive plant species is encouraged in order to reduce their impact on the environment and to preserve the remaining native plant communities.
2. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited. All plants shall be installed so that the top of the root ball remains even with the soil grade or ten (10) percent or the root flare is visible above the surrounding grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed before planting.
3. All parking islands, medians, and other landscape areas shall be installed with continuous Type "D" curbing to prevent damage to the plant material and the displacement of topsoil and mulch. Also, all landscape islands, divider medians, and planters shall be excavated of limerock and/or compacted soil to a depth of thirty (30) inches and backfilled with specified planting mix to the top of curb. Additionally, all areas along buildings shall be excavated to a depth of twelve (12) inches and backfilled with specified planting mix.
4. Garage and rooftop landscaping. Not less than fifty (50) percent of rooftop areas of buildings that are ancillary to and are visible from upper level dwelling or hotel units on the same site shall be screened or buffered through the use of landscaped horizontal trellis structure, shade or palm trees in irrigated planters, canopies, screening walls enclosing mechanical



equipment and/or through the decorative surface treatments of float roof areas with patterns of gravel or other surfacing materials in varying shades and hues to create a graphic composition. Not less than fifty (50) percent of open rooftop parking on garage structures adjacent to upper level residential and hotel units shall be screened through the used of trellis structures, canopies or shade or palm trees in irrigated planters. All parking structures require irrigated planters with plant material that screens and buffer the parking structures on all sides.

5. All proposed multi-trunk trees shall have a minimum of three trunks with no more than five trunks of equal diameters originating from the base of the tree and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.
6. All proposed trees and palms shall not be planted under roof over hangs or balconies.
7. All proposed trees and palms within or overhanging pedestrian areas shall have a clear trunk high enough to allow unobstructed pedestrian movement under or around.
8. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six (6) percent Nitrogen (N) – six (6) percent Phosphorus (P) – six (6) percent Potassium (K) of which fifty (50) percent of the nitrogen must be derived from an organic source.
9. All proposed tot lots or pools shall be required to have a minimum shade requirement to allow persons to seek refuge from the sun.
10. Salt tolerant plant species is encouraged in all areas of the Town.
11. The concepts of Green Building Design and LEED are encouraged to help reduce water consumption, decrease fossil fuel burning, channel breezes, assist in cooling, create more pervious areas for drainage and promote more environmentally conscious.
12. All plant root ball sizes shall conform or exceeded the minimum standards in the current edition of Florida Grades and Standards.
13. All landscape areas with the exception of H30A, H30B and H30C (for single family and two family only) shall be provided with an automatically operating, underground, and rust free irrigation system designed to have one hundred (100) percent coverage with one hundred (100) percent overlap. Drip, trickle or other low-volume irrigations systems shall be permitted if designated on approved landscape plans and approved by the Town. Irrigation systems shall be designed to minimize application of water to impervious areas. All PVC risers shall be painted flat black
 - a. Pursuant to § 373.62, F.S., any irrigation system installed after May 1, 1991, shall install a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.
 - b. Use of non-potable water, including, but not limited to, water from a canal, lake or a treated water source, in the irrigation of landscaped areas is required when determined to be available and safe.
 - c. Automatic controlling devices shall be used on all irrigation systems.
 - i. Preserved native habitats or native plant communities shall not be irrigated unless required by the Town.
 - ii. Recommend the use of a second water meter for irrigation to help reduce the cost of the watering the landscape. NOTE: The sewer usage cost is eliminated with this added meter.



- iii. Encourage the use of rainwater cisterns to help save water, one of our greatest natural resources. Also, rainwater cisterns will help on reducing watering costs and the impacts of water restrictions on the landscaping. Cisterns shall be provided below grade and are permitted in all zoning districts.

14. Inspections of sites for landscape and irrigation installation:

- a. A pre-inspection of the site with the landscape and irrigation contractor will be required to discuss all the Town requirements, answer any questions and determine site conditions for appropriate use and selection of landscape material prior to installation.
- b. A final landscape and irrigation inspection will be required upon completion.

Sec. 90.88

Maintenance of landscaped areas

1. An owner of land subject to this Code shall be responsible for the maintenance of said land and landscaping so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. NOTE: All fertilizer shall be safe and environmentally friendly. Also, the applications shall conform to the manufacturer's specifications.
2. Three inches of clean, weed-free, arsenic free, organic mulch shall be maintained over all areas originally mulched at all times. Turfgrass shall be kept trimmed and/or mowed regularly to a height not exceeding eight (8) inches above the ground. NOTE: If weeds, noxious grasses or underbrush are in excess of the eight (8) inches; it too will need to be cut and the weeds, noxious grasses and underbrush removed and re-sodded if necessary.
3. Irrigation systems shall be maintained to eliminate water loss due to damaged, missing or improperly operating sprinkler heads, emitters, pipes and all other portions of the irrigation system.
4. Preserved and created native plant communities shall be maintained in a natural state without the use of mechanical equipment.
5. An owner is responsible to ensure that landscaping that has been required to be planted pursuant to this Code, or installed in compliance with the landscape requirements previously in effect, be maintained in Florida Grade One condition, including but not limited to single-family residences, multifamily, or business sites. If landscaping is found to be in a state of decline, dead, damaged, or missing, it must be replaced with equivalent landscape material. If total replacement is required, species conforming to this Code shall be used. If any preserved vegetation dies which is being used to satisfy current landscape code requirements, such vegetation shall be replaced with the same landscape material selected from nursery-grown native stock only.
6. All trees shall be trimmed in accordance to Miami-Dade County tree preservation code. Any type of tree abuse/hatracking is prohibited within the Town.
7. Any trees and/or palms that are diseased (including dead palms with lethal yellowing) or trees and/or palms causing a possible safety hazard as determined by the Town are considered to be a public nuisance. The Town shall enforce the provisions of this Section. Any property owner of any lot or parcel of land in the Town shall promptly remove any such tree and/or



palm after being notified by the Town. The Town is authorized and empowered to enter on any lot or parcel of land in the Town at any reasonable hour for the purpose of inspecting such trees and/or palms.

8. Shrubs and hedges shall be maintained that such plant materials do not obstruct clear sight triangles and promote vehicular and pedestrian visibility. Also, hedges planted along property lines shall be maintained and trimmed to prevent branches from extending over and/or touching structures on adjacent properties.
9. Any plastic or similar artificial landscape materials shall be prohibited with the exception of seasonal holiday decorative displays of less than sixty (60) days duration.
10. All property owners shall keep such property and the adjoining unpaved portions of the public right-of-ways, swales and bulkheads clean and free from any accumulation of garbage, trash, liter or debris.
11. All property owners with in the Town shall not permit unattended vegetation upon the property, adjoining portions of the rights-of-ways, swales and canal banks.
12. All non-compliance with section of the ordinance shall be enforced in accordance with the Town's Code Enforcement Rules and Regulations.

Sec. 90.89

Plant material

90.89.1

Quality: Plant materials used in accordance with this Code shall conform to the standards for Florida Grade One, or better, (NOTE: Some proposed landscaping can be required to be Florida Fancy) as provided for in the most current edition of *Grades and Standards for Nursery Plants*, 2nd edition, Feb. 1998, State of Florida Department of Agriculture and Consumer Services, as amended. Additional information not addressed in the Florida *Grades and Standards for Nursery Plants* shall refer to ANZI Standards Z60.1. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine "Floritam", "Palmetto," or Bermuda, laid on a smooth planting base with tight joints, at one hundred (100) percent coverage at time of planting and cut to fit all landscape planters and curb areas.

90.89.2

Native Vegetation: Fifty (50) percent of all vegetation, excluding all turf grass, required to be planted by this Code shall be indigenous to South Florida.

90.89.3

Preserved/Created Native Plant Communities: Native Plant communities shall be preserved or created. Sites which consist of five acres or more, where there is no viable native plant community, the applicant shall show on the landscape plan an area or areas equivalent to two and a half (2 1/2) percent of the site to be planted and preserved as an native plant community. Sites which consist of two (2) to five (5) acres may incorporate a native plant community into the landscape buffer or interior landscaping requirements.

90.89.4

Trees:

1. Shade/canopy tree: Shade/canopy tree shall be a minimum overall height of fourteen (14) feet, six (6) feet spread, two and one half (2 1/2) inches DBH and five (5) feet clear trunk. This category shall constitute twenty (20) percent of the minimum required trees.
2. Intermediate trees: Intermediate trees shall be a minimum overall height of twelve (12) feet, five (5) feet spread, two (2) inches DBH and four and one half (4 1/2) feet clear trunk. This category shall constitute twenty (20) percent maximum of the required trees.
3. Small trees: Small trees shall be a minimum overall height of ten (10) feet, four and one half (4 1/2) feet spread, one and one half (1 1/2) inches DBH



and four (4) feet clear trunk. This category shall constitute no more than twenty (20) percent of the required trees.

4. Palms: Palms shall have a minimum of six (6) feet grey wood and shall constitute no more than forty (40) percent of the required trees. All palms with the exception of *Roystonea elata/regia*, *Phoenix canariensis*, *Phoenix dactylifera*, *Phoenix sylvestris*, *Phoenix reclinata*, *Wodyetia bifurcata*, and *Bismarckia nobilis*, shall be counted at three (3) for one (1) and planted with staggered heights NOTE: All proposed coconut palms shall be certified to be resistant to Lethal yellowing.
5. All landscaping including shrubs and groundcover shall be guaranteed for one year after final landscape inspection.
6. Street tree requirements:
 - a. Street trees shall be required at one (1) shade tree/palm tree per twenty (20) linear feet of street frontage thereof along all public or private street right-of-ways in all zoning districts.
 - b. ii. Street trees shall be of a species typically grown in South Florida that normally matures to a height of at least twenty (20) feet. Street trees shall have a clear trunk of over seven (7) feet, an overall height of fourteen (14-16) feet and a minimum of two and one half (2 1/2) inches DBH at time of planting. Palm trees utilized as street trees shall have eight (8) foot clear wood.
 - c. The average spacing requirement for H40 Districts shall be based on the total lineal footage of roadway for the entire project and not based on individual lot widths.
 - d. Street tree species shall be approved by the Town during plan review. Street trees shall visually define the hierarchy of roadways, provide shade along roadways, and provide a visual edge along roadways. Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.
 - e. Street trees shall be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Town.
 - f. Street trees planted along roadways and/or sidewalks shall be placed a minimum of four (4) feet off the interior pavement edge.
 - g. Street trees planted within sidewalk or curbed planting area along parallel parking shall have a minimum planting area of six (6) feet by six (6) feet. If the street tree is planted within the sidewalk, root barrier(s) of minimum depth of twelve (12) inches shall be installed per manufacturer's recommendations. These trees shall require adjustable tree grates or groundcover to full coverage inside planting area.
 - h. When trees are planted within the right-of-way, the owners of land adjacent to the areas where street trees are planted must maintain those areas including the trees, plants, irrigation and sod. Where the State, County or Town determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.
7. The following plant species shall not be planted as required or optional landscaping and, in addition, these species shall be removed from the



construction sites with the exception of existing ficus hedges that have been damaged during a strong storm or hurricane. If fifty (50) percent or more viable ficus hedge material is left than the additional missing fifty (50) percent or less can be replaced:

Botanical Name	Common Name
<i>Acacia auriculiformis</i>	Earleaf Acacia
<i>Adenantha pavonina</i>	Red sandalwood
<i>Aeginetia</i> spp. (all)	Aeginetia
<i>Ageratina adenophora</i>	Crofton weed
<i>Albizia julibrissin</i>	Mimosa
<i>Albizia lebbbeck</i>	Woman's Tongue
<i>Alectra</i> spp. (all)	Yerba de hierro
<i>Alternanthera philoxeroides</i>	Alligator weed
<i>Alternanthera sessilis</i>	Sessile joyweed
<i>Araucaria heterophylla</i>	Norfolk Island Pine
<i>Ardisia crenata</i>	Coral ardisia
<i>Ardisia solanacea</i>	Shoebuttan Ardisia
<i>Asphodelus fistulosus</i>	Onionweed
<i>Avena sterilis</i>	Animated oat
<i>Azolla pinnata</i>	Asian mosquito fern
<i>Bischofia javanica</i>	Bischofia, Toog
<i>Borreria alata</i>	Broadleaf buttonweed
<i>Brassaia actinophylla</i>	Schefflera
<i>Broussonetia papyrifera</i>	Paper mulberry
<i>Carthamus oxycantha</i>	Wild safflower
<i>Casuarina</i> spp.	Australian Pine
<i>Cestrum diurnum</i>	Day blooming jasmine
<i>Chrysopogon aciculatus</i>	Pilipiliula
<i>Cinnamomum camphora</i>	Camphor tree
<i>Colocasia esculenta</i>	Taro
<i>Colubrina asiatica</i>	Latherleaf
<i>Commelina benghalensis</i>	Benghal dayflower
<i>Crassula helmsii</i>	Swamp stonecrop
<i>Crupina vulgaris</i>	Common crupina
<i>Cupianopsis</i> spp.	Carrotwood
<i>Cuscuta japonica</i>	Japanese dodder
<i>Cuscuta megalocarpa</i>	Bigfruit dodder
<i>Cuscuta potosina</i>	Globe dodder
<i>Cuscuta</i> spp. (except natives)	Exotic dodder vines
<i>Dalbergia sissoo</i>	Indian Rosewood
<i>Digitaria abyssinica</i>	Couch grass
<i>Digitaria velutina</i>	Velvet finger grass
<i>Dioscorea alata</i>	White yam
<i>Dioscorea bulbifera</i>	Air potato
<i>Drymaria arenarioides</i>	Alfombrilla
<i>Eichhornia azurea</i>	Anchored waterhyacinth
<i>Eichhornia</i> spp. (all)	Water hyacinths
<i>Emex australis</i>	Three-cornered jack
<i>Emex spinosa</i>	Devil's thorn



Botanical Name	Common Name
<i>Enterolobium contortisliquum</i>	Ear-pod tree
<i>Eucalyptus spp. (1 or more)</i>	Eucalyptus trees
<i>Euphorbia prunifolia</i>	Painted euphorbia
<i>Fatoua spp. all</i>	Fescue
<i>Ficus altissima</i>	False banyan
<i>Ficus benghalensis</i>	Banyan tree
<i>Ficus benjamina</i>	Weeping fig
<i>Ficus carica</i>	Edible fig
<i>Ficus decora</i>	Rubber tree
<i>Ficus nitida/Ficus microcarpa</i>	Cuban laurel
<i>Ficus religiosa</i>	Bo tree
<i>Ficus spp. (all non-natives)</i>	Ficus
<i>Flacourtia indica</i>	Governor's plum
<i>Flueggea virosa</i>	Flueggea
<i>Foeniculum vulgare</i>	Fennel
<i>Fragaria chiloensis var. Ananassa</i>	Strawberry
<i>Fraxinus uhdei</i>	Shamel ash
<i>Galega officinalis</i>	Goatsrue
<i>Grevillea robusta</i>	Silk Oak
<i>Heracleum mantegazzianum</i>	Giant hogweed
<i>Hibiscus tiliaceus</i>	Mahoe
<i>Hydrilla verticillata</i>	hydrilla
<i>Hygrophila polysperma</i>	Miramar weed
<i>Imperata brasiliensis</i>	Brazilian satintail
<i>Imperata spp.</i>	Cogon grass
<i>Ipomoea aquatica</i>	Chinese waterspinach
<i>Ipomoea fistulosa</i>	Shrub morning glory
<i>Ipomoea triloba</i>	Little bell morning glory
<i>Jacaranda acutifolia</i>	Jacaranda
<i>Jasminum dichotomum</i>	Gold Coast jasmine
<i>Jasminum fluminense</i>	Brazilian jasmine
<i>Lagarosiphon major</i>	Oxygen weed
<i>Lagarosiphonspp. (all)</i>	African elodeas
<i>Lantana camara</i>	Shrub verbena
<i>Leptochloa chinensis</i>	Asian sprangletop
<i>Leucaena leucocephala</i>	Lead Tree, Jumbie Bean
<i>Ligustrum sinense</i>	Chinese privet
<i>Limnocharis flava</i>	Sawa flowering-rush
<i>Limnophila sessiliflora</i>	Ambulia
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lycium ferocissimum</i>	African boxthorn
<i>Lygodium japonicum</i>	Japanese climbing fern
<i>Lygodium microphyllum</i>	Old World climbing fern
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Manilkara zapota</i>	Sapodilla
<i>Melaleuca quinquenervia</i>	Melaleuca or Paperbark
<i>Melastoma malabathricum</i>	Indian rhododendron
<i>Melia azederach</i>	Chinaberry tree
<i>Merremia tuberosa</i>	Woodrose



Botanical Name	Common Name
<i>Mikania cordata</i>	Mile-a-minute vine
<i>Mikania micrantha</i>	Mile-a-minute vine
<i>Mimosa invisa</i>	Giant sensitive plant
<i>Mimosa pigra</i>	Cat-claw mimosa
<i>Monochoria hastata</i>	Monochoria
<i>Monochoria vaginalis</i>	Asian pickerel weed
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Nassella trichotoma</i>	Serrated tussock
<i>Nechamandra alternifolia</i>	Indian elodea
<i>Neyraudia reynaudiana</i>	Burma reed
<i>Orobanchesspp. except (O.uniflora)</i>	Broomrape
<i>Oryza longistaminata</i>	Red rice
<i>Oryza punctata</i>	Red rice
<i>Oryza rufipogon</i>	Wild red rice
<i>Ottelia alismoides</i>	Duck-lettuce
<i>Paederia cruddasiana</i>	Sewer vine
<i>Paederia foetida</i>	Skunk vine
<i>Paspalum scrobiculatum</i>	Kodo-millet
<i>Pennisetum clandestinum</i>	Kikuyu grass or Napier grass
<i>Pennisetum macrourum</i>	African feather grass
<i>Pennisetum pedicellatum</i>	Kyasuma grass
<i>Pennisetum polystachyon</i>	Mission grass
<i>Pistia stratiotes</i>	Water-lettuce
<i>Pongamia pinnata</i>	Pongam
<i>Pontederia rotundifolia</i>	Tropical pickerelweed
<i>Prosopis spp. (Except natives)</i>	Mesquite
<i>Pueraria Montana</i>	Kudzu
<i>Rhodomyrtus tomentosa</i>	Downy Rose Myrtle
<i>Ricinus communis</i>	Castor bean
<i>Rottboellia cochinchinensis</i>	Itch grass
<i>Rubus fruticosus</i>	European bramble blackberry
<i>Rubus moluccanus</i>	Asian wild raspberry
<i>Saccharum spontaneum</i>	Wild sugarcane
<i>Sagittaria sagittifolia</i>	Eurasian arrowhead
<i>Salsola vermiculata</i>	Wormleaf salsola
<i>Salvinia spp.</i>	Salvinia
<i>Sapium sebiferum</i>	Chinese tallow tree
<i>Scaevola taccada</i>	Beach naupaka
<i>Schefflera actinophylla</i>	Queen's Island umbrella
<i>Schinus terebinthifolius</i>	Brazilian Pepper, Florida Holly
<i>Setaria pallidefusca</i>	Cattail grass
<i>Solanum tampicense</i>	Wetland nightshade
<i>Solanum torvum</i>	Turkeyberry
<i>Solanum viarum</i>	Tropical soda apple
<i>Sparganium erectum</i>	Exotic bur-reed
<i>Stratiotes aloides</i>	Water-aloe
<i>Striga asiatica</i>	Asiatic witchweed
<i>Striga densiflora</i>	Denseflower witchweed



Botanical Name	Common Name
<i>Striga gesnerioides</i>	Cowpea witchweed
<i>Striga hermonthica</i>	Purple witchweed
<i>Syzygium cumini</i>	Java plum or Jambolan
<i>Syzygium jambos</i>	Rose-apple
<i>Terminalia cattapa</i>	Tropical Almond
<i>Thespesia populnea</i>	Seaside Mahoe
<i>Trapaspp. (all)</i>	Water chestnuts
<i>Tribulua cistoides</i>	Puncture vine
<i>Tridax procumbens</i>	Coat buttons
<i>Urochloa panicoides</i>	Liverseed grass
<i>Vossia cuspidate</i>	Hippo grass
<i>Wedelia trilobata</i>	Wedelia

8. The use of wind tolerant trees and palms are encouraged due to the high risk of hurricanes in South Florida. Every effort should be utilized to reduce the risk of damage and liability by utilizing more wind tolerant landscaping. Also, the use of landscaping that is very poisonous, has a major pest or insect problem, thorny spines, drops messy fruit or has an aggressive root system will be reviewed case by case.
9. The use of plant materials that reinforce the ambience of the Town's distinctive, lush, subtropical character is encouraged.
10. The following plant list species shall not be considered as a required tree or palm. However these species may be utilized as an accent:

Botanical Name	Common Name
<i>Arborvitae spp.</i>	Thuja
<i>Dypsis lutescens</i>	Areca Palm
<i>Veitchia merrillii</i>	Christmas Palm
<i>Cupressus sempervirens</i>	Italian Cypress
<i>Caryota mitis</i>	Fishtail Palm
<i>Citrus spp.</i>	Citrus
<i>Nerium oleander</i>	Oleander
<i>Ravenala madagascariensis</i>	Travelers Tree
<i>Phoenix roebelenii</i>	Pygmy Date Palm
<i>Sterlizia nicolai</i>	White Bird of Paradise

11. All trees and palms must be a minimum of four (4) feet from all underground utility lines. Also, refer to the site lighting and fire hydrant requirements for tree and palms.
12. All invasive exotic pest plants shall be removed from the site prior to final inspection.
13. All landscape substitutions including shrubs and groundcover shall require Town approval prior to installation.
14. No more than thirty (30) percent (of required trees shall be of the same species. The tree diversity mix shall be as follows:

Number of Trees	Number of Species Required
1-4	4
5-25	5



26-50	6
51-75	7
75-100	8
100+	9

90.89.5

Shrubs and Hedges.

1. Shrubs shall be a minimum of two (2) feet high, full to base, two (2) feet spreads and planted two (2) feet on center when measured immediately after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized. When shrubs are used as a screen around vehicular open space areas, said shrubs shall be a minimum of two (2) feet in height above the vehicular open space pavement surface that directly abuts the shrubs at time of planting and branch touching branch.
2. Required buffer hedges shall be planted two (2) feet high, full to the base, two (2) feet spreads and two (2) feet on center spacing (branch touching branch) and maintained so as to form a continuous, unbroken solid, visual screen, with a maximum height of three (3) feet, to be attained within one (1) year after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized.
3. Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.
4. Ficus spp., when planted as a hedge, may be used to meet the requirements of dumpster enclosure, mechanical equipment and electrical transformer screening only.

90.89.6

Vines. Vines shall be full and a minimum of thirty (30) inches in supported height immediately after planting. The method of attachment shall be indicated on the landscape plans.

90.89.7

Groundcover. Groundcovers shall be full and planted with a minimum of seventy-five (75) percent coverage with one hundred (100) percent coverage occurring within three (3) months of installation. All ground cover shall be planted so not to touch the building walls or walkways at time of planting.

90.89.8

Turf:

1. All turf areas including but not limited to swales, lake maintenance easements, and retention areas shall be sodded using St. Augustine Floratam, Palmetto or Bermuda sod to the water line.
2. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.
3. Turf areas shall be consolidated and limited to those areas on the site that require pedestrian traffic, provide for recreation use or provide soil erosion control such as on slopes or in swales, or surface water management areas, and where turf is used as a design unifier, or other similar practice use. Turf areas shall be identified and labeled on the landscape plan.
4. The following percentages shall apply to turf areas:
 - a. No more than eighty (80) percent of the landscape area for single-family and duplex dwellings may be in turf grass.
 - b. No more than sixty (60) percent of the landscape area for multifamily dwellings may be in turf grass.



- c. No more than fifty (50) percent of the landscape area for other development uses may be in turf grass, notwithstanding the use of artificial turf for the purpose of municipal athletic fields.

90.89.9 *Planting soil and topsoil:* Topsoil and/or planting soil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall be composed of a minimum of fifty (50) percent muck and fifty (50) percent sand or eighty (80) percent sand and twenty (20) percent muck.

90.90 Vegetative Provisions

- 90.90.1 *Xeriscape.*
- 1. A minimum of twenty (20) percent of the pervious area on single family and duplex dwellings must be in Xeriscape landscape.
 - 2. A minimum of forty (40) percent of the pervious area of multifamily dwellings must be in Xeriscape landscape.
 - 3. A minimum of fifty (50) percent of the pervious area of all other development uses must be in Xeriscape landscape.

90.90.2 Use of site specific plant material: Plants used in the landscape design shall be to the greatest extent, appropriate to the soil and other environmental conditions in which they are planted.

90.90.3 Invasive exotic plant material: As a condition of approval, the property owner shall remove all invasive exotic species from the property prior to final.

90.91 Landscape buffer areas between residential and non-residential properties and vehicular use areas

90.91.1 *Applicability:* All proposed development or re-development sites and vehicular use areas serving H30C, H40, H120, SD-B40 or municipal uses shall conform to the minimum landscaping requirements hereinafter provided. Interior parking landscape requirements under or within buildings and parking areas serving H30A and H30B districts are exempt. Additionally, SD-B40 is exempted when the adjacent or contiguous zoning district or use is the same with the exception of vehicular use areas for parking lots, loading, storage or screening of equipment requirements. Expansive concrete or paver areas shall require landscaping to soften and scale the buildings.

90.91.2 *Required Buffer Landscaping Adjacent to Streets and Abutting Properties:* On any proposed, re-developed site, or open lot providing a vehicular use area for H30C, H40, H120, SD-B40 adjacent or contiguous to H40, or municipal plots where such area is abutting street(s) and/or property lines, including dedicated alleys, landscaping shall be provided between such area and such perimeters as follows:

- 1. A flat ground level or bermed strip of land at least ten (10) feet in depth, located along all the property lines of abutting street(s) and abutting property line(s) shall be landscaped. Such landscaping shall include three (3) trees for each fifty (50) linear feet or fraction thereof. The first tree shall be set back from the intersection of the ingress/egress and the street. The setback area shall be limited to groundcover only. In addition, a hedge, berm, wall or other durable landscape barrier shall not create a sight hazard by being placed along the inside perimeter of such landscape strip and shall be maintained at a maximum height of three (3) feet, if contiguous to a pedestrian walkway, to meet Crime Prevention Through Environmental Design (CPTED) principles. If such durable barriers including walls or fences are of nonliving material, it shall be screened to



the height of the durable barrier with a hedge along the street side of such barrier. If a fence or wall is utilized along an abutting property line it must be installed at the property line and screened to the height of the durable barrier with a hedge from the inside. The remainder of the required landscape area shall be landscaped with turf grass, groundcover or other landscape treatment, excluding paving, turf grass not to exceed the maximum amount allowable in the Xeriscape requirements. This buffer may not be counted toward meeting the interior landscape requirements.

2. All property other than the required landscaped strip lying between the streets and abutting property lines shall be landscaped with turf grass or other groundcover; if turf grass is used, it shall not exceed the Xeriscape requirements.
3. All Town approved necessary accessways from the public street through all such landscaping shall be permitted to service the site.
4. **Parking Area Interior Landscaping.** An area, or a combination of areas, equal to twenty (20) percent of the total vehicular use area exclusive of perimeter landscape buffers required under this subsection shall be devoted to interior landscaping. Any perimeter landscaping provided in excess of that required by this Section shall be counted as part of the interior landscaping requirements, as long as such landscaping is contiguous to the vehicular use area and fulfills the objective of this subsection.
5. All parking areas shall be so arranged so that if there are ten (10) or less contiguous parking stalls along the same parking aisle, the eleventh space shall be a landscaped peninsula a minimum of eleven (11) feet in width with a minimum of ten (10) feet wide landscape area. Also, all rows of parking shall be terminated with eleven (11) feet in width landscape islands with ten (10) feet wide landscape area. In addition, there shall be a minimum requirement of one (1) shade tree and twenty five (25) shrubs planted for every landscaped island. If landscaped divider medians are utilized, they must be a minimum of six (6) feet wide. The minimum dimensions of all proposed landscaped areas not mentioned in this chapter shall be six (6) feet wide. In addition, any Town approved grass parking areas will meet the same requirements as paved parking, and will not be calculated in the pervious space requirements.
6. Landscaped areas, walls, structures and walks shall require protection from vehicular encroachment through appropriate wheel stops or curbs located a minimum of two and a half (2 1/2) feet from any landscaped area. NOTE: The Town encourages the use of Type "D" curbing in parking area that abut landscape areas to provide more green area and lessen the chance of tripping hazards. This can not be utilized to count for buffer or divider median requirements, but can be utilized for pervious and landscaping in the VUA percentages.
7. Where any plot zoned or used for H120 is contiguous to the bulkhead line, a landscape area consisting of the bulkhead line, the erosion control line, and the property lines shall be provided or restored. The proposed landscape material for the required landscape area shall be one hundred (100) percent landscape material used on the barrier island dune system and shall be composed of native plants adapted to the soil and climatic conditions occurring on-site. Additionally, all plant species, amount of plant material, plant spacing and design shall be approved by the Town.



Sec. 90.92

Sight triangles and clearances

When the subject property abuts the intersection of one (1) or more streets or access ways, all landscaping within the triangular area located within twenty five (25) feet of the intersection of the front and side street property lines shall provide unobstructed cross-visibility at a level between thirty (30) inches and eight (8) feet, with the exception of tree trunks that do not create a traffic hazard. The property owner shall be responsible for maintaining all landscaping within the cross-visibility triangle. Landscaping, except required turf and groundcover, shall not be located closer than five (5) feet from the edge of any roadway and three (3) feet from the edge of any alley or pavement. All sight triangles shall be indicated on the landscape plans. NOTE: The Town Traffic Engineer shall have final approval of the clear sight triangles.

Sec. 90.93

Open Space

All open space on any site shall conform to the following requirements:

1. General Landscape Treatment:
 - a. Groundcover, shrubs, and other landscape materials (not including rocks, gravel, pavers, turf blocks, artificial turf, or other items) shall be installed to cover all open space areas not covered by paving or structures, using the required percentages specified in the Plant Material section. No substance including rocks, gravel, pavers, turf blocks, artificial turf or other materials which prevents water percolation shall be used in areas not approved for paving or structures. Proper horticultural planting practices shall comply with Xeriscape requirements.
 - b. Along all buildings and structures, mature landscaping at installation shall be installed at one half (1/2) the height of the building or structure at one (1) tree per twenty-five (25) linear feet of each building's façade on all sides for scaling and softening. On buildings over seventy-five (75) feet in height the proposed trees/palms shall be at least thirty-five (35) to thirty-eight (38) feet tall at time of installation. NOTE: If the landscape buffer is contiguous to the building then the landscape buffer requirement will supersede, with the exception of one (1) tree per twenty-five (25) feet being one half (1/2) the height of the building at installation. Additionally, shrubs and groundcovers shall be added to enhance the building. A minimum six (6) feet wide landscape strip shall be provided not including overhands or awnings around all the buildings.
2. Shrub and Tree Requirements: Shrubs and trees shall be planted in the open spaces to meet the following requirements:

Percent of Site in Open Space (Amount of Pervious Landscape Planting Area)	Tree and Shrub Requirements
Less than 30%	1 tree and 10 shrubs per 1,000 sf
30 - 39%	1 tree and 8 shrubs per 1,500 sf
40 - 49%	1 tree and 6 shrubs per 2,000 sf
50% or more	1 tree and 6 shrubs per 2,500 sf

3. Screening of Equipment: Dumpsters, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened on at least three (3) sides by landscape material that equal to the height of the element at installation. Such screening shall not interfere



with normal operation of equipment and shall be maintained at the height of the element or no more than one (1) foot above. In addition, bus shelters which are located within property lines shall be screened with plant material a minimum of two (2) feet in height on three (3) sides, and one (1) canopy tree, fourteen (14) feet in height or three (3) palms.

4. Signs: All freestanding sign installations require the installation and establishment of plant material to enhance the structure, at a minimum of one shrub for every two (2) feet of lineal width of the sign structure on each side; and groundcover, a minimum of five (5) feet around the perimeter of the sign base, designed in such a manner so as to not block the message on the sign. Trees or palms shall be required to enhance the sign with blocking it.
5. Minimum Landscape Credits and Adjustments: An owner shall receive credit against the minimum landscape code requirements of this Code for preservation, replacement or relocation of existing trees as determined by the Town.

Sec. 90.94

Landscape Buffers

1. Where any plot zoned or used for H30C, H40 or H120 is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least ten (10) feet in depth.
2. Where any plot zoned or used for H40 or H120 or H30C is contiguous to any plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.
3. Where any plot zoned or used SD-B40 or municipal plot is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.
4. Where any plot zoned or used for SD-B40 or municipal plot is contiguous to a zoned or used plot of H30A or H30B, said plot shall be provide a landscape buffer of at least twenty (20) feet in depth.
5. Refer to Landscape requirements for landscape buffer and vehicular use areas adjacent to streets and abutting properties section for landscape requirements. The only additional requirement is a one (1) to two and one half (2 1/2) foot tall undulating and meandering landscape berm at three (3) to one (1) slope with layered landscaping along the perimeter adjacent or contiguous to any zoned or used plots of H30A or H30B.
6. In cases where nonresidential property abuts residential property, the Town can require such additional landscaping as is necessary to protect the aesthetics and minimize the impacts of the surrounding area.

Sec. 90.95

Single-family H30A and H30B District landscape requirements

All new H30A and H30B dwellings shall conform to the following minimum landscaping requirements:

1. Landscape Plans: H30A and H30B dwellings may submit landscape plans in the form of a H30A and H30B Landscape Data Table, on a form provided by the Town at time of permit application for review. This form shall include the required minimum landscape requirements, specifications and acceptable plant material choices to be chosen by the applicant. After the applicant has submitted a completed and signed form, a review of the form will be done to verify that all the requirements have been met.



Landscape drawings are not required for H30A and H30B dwellings, however, plans are recommended.

2. General Landscape Treatment: Trees, turf grass, groundcover, shrubs and other decorative landscape material shall be used to cover all disturbed ground not covered by building and paving; with Xeriscape to be a minimum of twenty (20) percent of the open space of the site.
3. Shrub and Tree Requirements:
 - a. A minimum of five (5) trees of two (2) different species and twenty five (25) shrubs shall be planted per lot. On corner lots an additional one (1) tree and 10 shrubs shall be required. For all lots larger than eight thousand (8,000) square feet in area, additional shrubs and trees shall be provided at the rate of one (1) tree and ten (10) shrubs per two thousand (2,000) square feet of lot area; however, there shall be no more than fifteen (15) trees and one hundred (100) shrubs required per acre.
 - b. Where possible, a minimum of two (2) trees shall be required in the front of the lot. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence.
 - c. The required shade tree in this subsection shall be a minimum of thirty (30) percent at an overall height of twelve (12) feet to fourteen (14) feet with a minimum canopy spread of five (5) feet and a DBH of two and one half (2 ½) inches. The small trees can be a maximum of thirty (30) percent at twelve (12) to fourteen (14) feet and minimum canopy spread of six (6) feet and DBH of two and one half (2 ½) inches. Palm trees shall have a minimum of six (6) feet of grey wood or clear wood and are counted as three (3) for one (1) (unless from the one (1) for one (1) list) and total palms can not make up more than forty (40) percent of the total trees.
 - d. Street trees are required and additional to this subsection. Refer to Plant Material section for street tree requirements.

Sec. 90.96

Preparer's certification of landscape compliance

1. All zone or use districts, except H30A and H30B, shall require a preparer's Certification of Landscape Compliance bearing the original letterhead of the designing firm and licensing number shall be submitted to and approved by the Town of Surfside prior to issuance of any final Certificate of Use, Certificate of Occupancy, or Certificate of Completion. The preparer's Certification of Landscape Compliance shall contain a statement, signed and sealed by the landscape architect of record who prepared the approved plans, that the landscape and irrigation plans have been implemented and that all requirements of this chapter have been met. The original designing firm and the Town prior to the implementation of any changes and substitutions shall approve said changes or substitutions to the approved plan.
2. For a new H30A and H30B residence, the owner or owner's agent may certify in writing that landscape and irrigation have been installed according to approved plan(s). All changes or substitutions must be approved by the Town of Surfside prior to installation.
3. The Town of Surfside shall inspect all projects for compliance prior to issuance of a Certificate of Use, Certificate of Occupancy, or Certificate of Completion.



Sec. 90.97

Tree removal, tree relocation, tree preservation, and tree abuse

Tree removal/relocation permits and native plant community vegetation removal permits are required prior to the removal/relocation of trees, specimen trees, or any vegetation, pursuant to Section 24-60 of the Code of Miami-Dade County. Also, tree abuse including hack racking is prohibited within the Town. Tree protection barriers are required during site development to preserve existing and relocated trees. The Miami-Dade County Department of Environmental Resources Management is responsible for administering and enforcing these provisions.

Sec. 90.98

Landscape manual and materials

The Town of Surfside shall prepare and from time to time revise the landscape manual and any functional landscape materials regarding these requirements. Said manual and materials shall be made available to the public.

APPENDIX

EXHIBIT "A"

design guidelines for
single family residential properties
multifamily and commercial properties



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Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's residential neighborhood by providing guidance for the design of new houses, additions and/or remodeling efforts in the existing neighborhood. These guidelines are intended to focus on the characteristics of neighborhood compatibility and to leave individual homeowners the maximum flexibility to build, expand or remodel to meet their own needs and objectives.

All new house construction, additions and remodeling projects must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to neighborhood character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of houses which harmonize with their surroundings and which demonstrate a high standard of quality.

It is important to acknowledge the suburban quality of the existing neighborhood and the community's expressed desire to increase the walkability of the area. Part of this agenda is ensuring that homes maintain an intimate relationship with the street they front. One of the challenges addressed through these guidelines is to accommodate the needs of a car-oriented lifestyle, while limiting the impact of the vehicles on the streetscape experience.

Lastly, the guidelines acknowledge that the existing houses are, in the majority of the instances, too small to accommodate today's lifestyles which encompass greater square footages of livable areas. In order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of homeowners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about residential construction at a number of levels:

- Homeowners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new houses, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions. It should be noted that the Guidelines present illustrated 'suggestions,' which should be interpreted as such and not as intended requirements for permit approval.
- Neighborhood residents should consult the Guidelines to understand the neighborhood compatibility concepts which will apply to new construction.

The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.

Objectives

The objectives of the Guidelines include:

- To encourage harmonious and attractive neighborhood experiences though attention the exterior architectural quality and appearance;
- To diminish the visual prominence of garages from the street and promote a neighborly experience;
- To encourage a variety of options for building designs;
- To establish the appropriate articulation of buildings within the limitations of the zoning ordinances having regard for mass, volume, architectural detailing, finishes and location within the community;
- To establish design requirements for buildings prominent community locations;
- To assist architects, designers and builders in the preparation of acceptable building designs;
- To promote the preservation of the existing quality and character of the neighborhood; and
- To provide implementation suggestions for the encouragement of the architectural historic character of potentially contributing or designated historic buildings.

Organization

The guidelines address four (4) general themes:

- **Elements of Building Design**
Identifies and addresses design integrity which the individual building.
- **Relationships to Adjacent Properties**
Identifies and addresses the interfaces between new construction and adjacent existing buildings.
- **Neighborhood Patterns**
Identifies building characteristics which are most apt to define a neighborhood's appeal and identity.

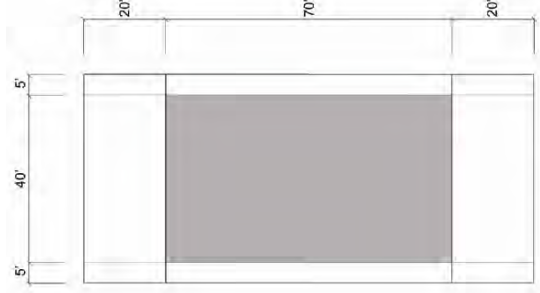
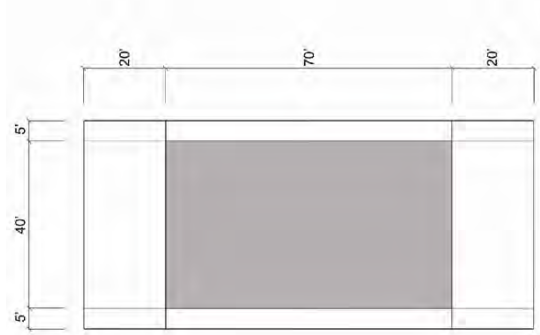


Parameters

The zoning existing within the town's ordinances, with respect to use designation and maximum heights, are not recommended to change. Within the residential neighborhood, the maximum height is 30 feet and the setbacks are as reflected in the illustrations and the attached chart.

The zoning remains consistent in and applicable in all its provision except one. These design guidelines recommend that the provision limiting construction to two (2) stories be increased to three (3), provided that the building's height does not exceed the established maximum height of thirty (30) feet.

District		Minimum Lot Requirements			Maximum Height		Minimum Yard Requirements				
Zoning	Description	Lot Width	Minimum Area	Lot area per dwelling unit	Max. Lot Coverage	Stories	Feet	Front Yard	Side Yard	Corner	Rear
RS-1	Single Family	50 ft.	2,500 sf.	8,000 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.
RS-2	Single Family	50 ft.	1,800 sf.	5,600 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.



Building Massing

By increasing the number of stories permitted, from two (2) to three (3) and maintaining the height limitation to thirty (30) feet, the property owners are given more flexibility to internally distribute the space in accordance to the parameters described herein.

Without the increase of stories, the only provisions of these guidelines that can realistically be implemented are those affecting the building's elevation only.

Opportunities to resolve the volumetric distribution and massing of the legally permissible build-able area will have been missed. Because lots are limited in size, increasing the number of allowable stories to increase the floor areas' opportunities allows property owners to implement the parameters without incurring any liabilities upon the Town. Massing distribution should conform to Option A or Option B of the *Mass and Volume Distribution Criteria*.



Maximum Volume Build-out - Allowable Massing versus Proposed

Roof Lines

Because the Town has a variety of architectural roof treatments, the character of the neighborhood does not predicate the use of a specific roof-type. This allows for the homeowner to select a roof style that can accommodate their needs. This will be beneficial for those home owners who choose to maximize the buildability of their lots. Never the less, designs should attempt to provide roof lines and roof designs that, when viewed from the street, are harmonious with abutting properties. All roof slopes on a single building should have the same angle unless different slopes are inherent in the design's style.



Elevation - Maximum Volume Build-Out

Mass and Volume Distribution – Option A

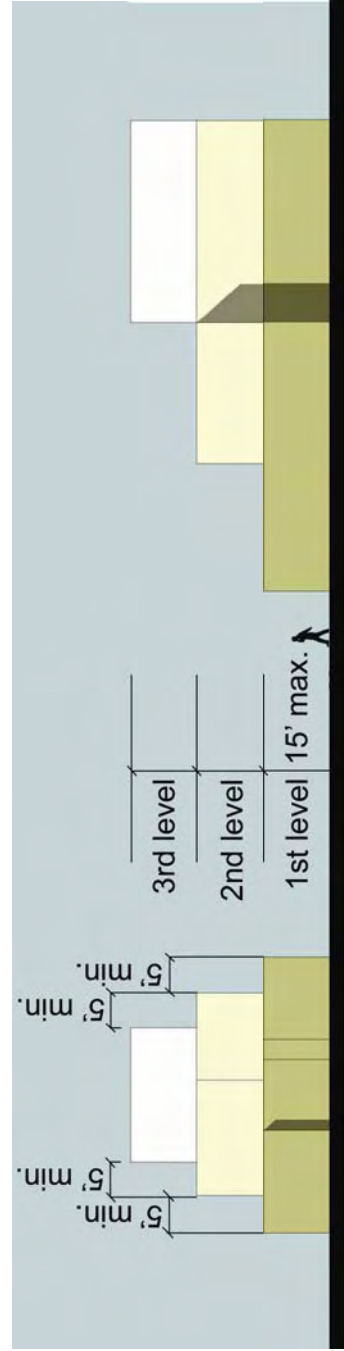
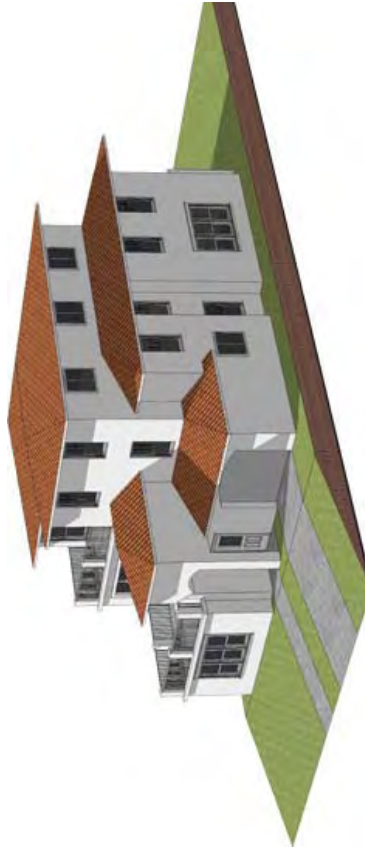
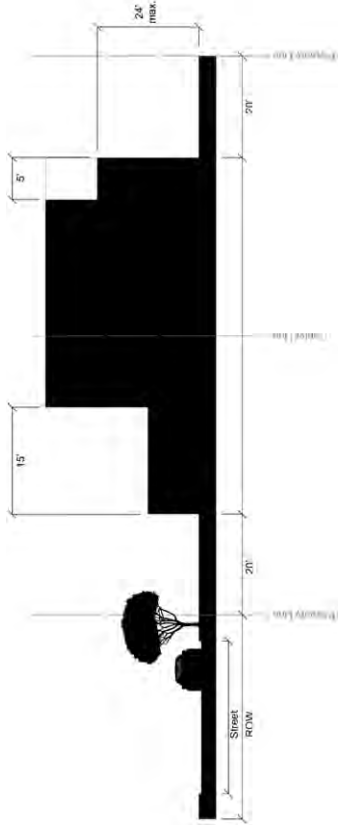
The massing of any new residential building or addition should be sensitive to the profiles of adjacent buildings and should locate second and third stories adequately to reduce the apparent overall scale of the building. This is necessary to ensure an adequate architectural and spatial relationship between new and existing buildings.

The first story should adhere to established zoning setbacks.

The second story should not exceed the ground floor area by 70% and should be setback a minimum of 15 feet from the front façade and a minimum of 5 feet from sides and rear façades.

Third stories or any wall planes exceeding 24 feet in height should provide an additional minimum 5 foot setback from all sides and rear elevations only, but should not be required from the front.

Building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.



Mass and Volume Distribution – Option B

The front façade of a building should be allowed to extend vertically a maximum of two (2) stories in height, provided that at least two (2) of the following criteria are met:

- A) The building should provide an open-air, transitional and habitable architectural element, such as a front porch or wrap-around balcony, for the entirety of the two-story façade (frontage and height). The transitory space should be a minimum of eight (8) feet deep and should be accessible from its corresponding floor elevation.



- B) A maximum of 60% of the facades frontage may be allowed to abut the front setback, with the remaining 40% setback an additional minimum of 12 feet;



- C) The building's façade should in its entirety be set back an additional 12 feet from the setback line; an additional 8 feet from any abutting property's single-story façade, whichever is greater but should not exceed 15 feet. Required transitory architectural elements may be allowed to encroach into the additional setback by 80%.



Transparency and Void Requirements

All elevations should provide for a minimum of 10% wall openings. Wall openings should be defined as either windows, doors or transitional spaces defined by porches, porticoes or colonnades.

Voids should be distributed throughout all facades facing a public Right-of-Way so as to create balance in the facades mass-void proportions and relationships.

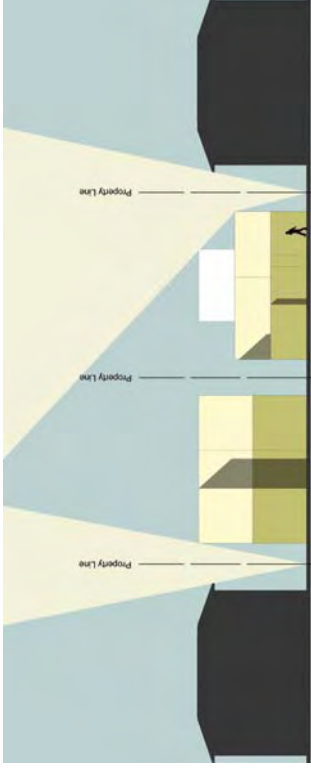
Treatment of voids and transparencies should be consistent on all facades of buildings. Glass may be clear or lightly tinted, but should never be darkly tinted or should never have a reflective finish.

New windows should be placed to avoid direct views into existing neighboring windows. Large second story windows overlooking adjacent rear yards should be articulated to minimize views into adjacent rear yards.



Building Forms

Buildings' massing, as provided with the controlled volumetric distribution, should provide for increased light-plane access in-between buildings, even if maximum build-out occurs. This is critical for ensuring that adjacent properties have adequate access to natural light and ventilation. Additionally, properties should provide for greater privacy between buildings on the upper stories.



Natural Light Diagram

Main Entries

Main entries are critical in their established relationships to the street. Increase prominence and visibility from the street, promote a greater architectural relationship between the public and private realms and encourages a sense of neighborhood.

Main entries should be:

- Prominent and oriented to the street;
- Rendered in appropriate scale for the block as well as the individual building;
- Entry feature should not extend above the eave line of the structure; and
- Should not be obstructed from view by fences, landscaping or other visual barriers.

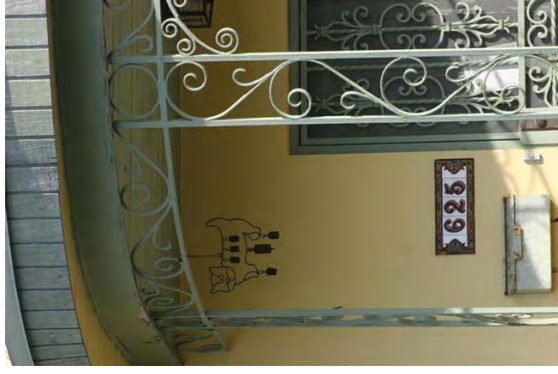


Decorative Features

Decorative features such as porch or balcony rails and columns, other columns and capitals, window sills and any other decorative elements should be stylistically consistent throughout the entire building.

Some elements, such as decorative window trims, should be consistent on all parts of the house, while others, such as porch and balcony rails, may apply only to those individual structures, typically those located at or near the front of the house.

For purposes of decorative features, consistency means the same materials, dimensions and design elements. Decorative consistency is perhaps most critical for additions to houses with architectural styles which include decorative features as important elements of the style. Decoration added to a house's addition only, where the original structure previously had none or a stylistically different decoration, should not be allowed.



Overall Architectural Style

The overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof. Particular care should be taken that building elevations and roof elements visible from streets and other public or adjacent spaces are stylistically consistent. Consistency should be determined by evaluating each of the building's elevations' components.

Mailboxes

The Town highly encourages mailboxes to be attached to the house. In the event that this does not apply, the following provisions should be implemented:

- 1) Materials should be true and consistent with the architectural character of the building in both color and texture.
- 2) Landscape planting or approved architectural elements should be used to minimize the visibility of the mailboxes from the public Right-Of-Way.

Decorative Permanent Elements

Decorative permanent elements should include any decorative feature not a part of the architectural facades, including but not limited to bird-baths, statuary, lighting poles and fixtures, columns, fountains, signage and outdoor artwork. Property owners should seek approval prior to installation of these elements.

Decorative permanent elements should be further defined as:

- 1) Any element larger than 36 inches in height or 60 inches in width;
- 2) Any outdoor element that remains installed for a period of time longer than 45 days;
- 3) Any element that requires a footing; or
- 4) Any element that utilizes electricity.

All decorative permanent elements should be in scale with all the façades of the property and should be consistent with the materials, colors and textures predominant of the architecture of the building. Consistency should mean the same materials, dimensions, proportions and design elements.



Garages and Parking Driveways

In general, new garages should be located and sized consistent with the established pattern of the neighborhood.

Attached garages located at the front or side of the house should be no wider than one necessary to accommodate the width of one car, and should never exceed 50% of the overall length of the facade. If a garage is provided to accommodate 2 cars, the garage entrances must have an exterior expression of two separate entrances, each a maximum of 10' wide, and separated by a minimum 18" wide vertical element consistent with the facade.

Attached garages on corner lots should be located to avoid driveway paving at or near the corner.

The width of paved driveways on private property as well as driveway cuts at the curb should be as narrow as possible. Curb cuts should not be two-cars wide, even if they provide direct access to a two-car wide driveway.

Paving accessible for parking in the front setback area should be limited to the width required for access to a garage or other required parking spaces.

Driveways should have a 2% cross slope or appropriate to promote containment of drainage on-site.

Driveway Treatments:

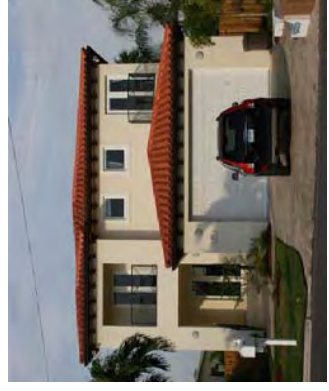
Asphalt driveways should not be permitted;

Driveways should be composed of materials and textures consistent with the overall character of the building;

The Town encourages the use of pavers, concrete may be used provided that it is color- and texture- treated;

Coloring on concrete should be consistent throughout the entire composition; and

Painted concrete should not be permitted.



Balconies, Decks and Lighting

New balconies or decks located more than 5 feet above grade on new or existing houses should be built no closer than 5 feet to adjacent single family side-property lines and no closer than 20 feet to adjacent rear property lines.

Lighting should never be allowed to shine directly onto adjacent residential properties. The view of light sources should be entirely shielded from adjacent properties.

Large, two-story building masses at the sides and rear of adjacent single family yards should be avoided to help preserve privacy and sunlight access for the neighboring property.



Wall Materials and Finishes

Wall material finishes should be appropriate to the style and style era of the house. For example, materials developed after the establishment of a particular architectural style are not appropriate on buildings of that style unless the new material is a high quality and deliberate reproduction of the original material. The same material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.

False, foam materials should not be allowed.



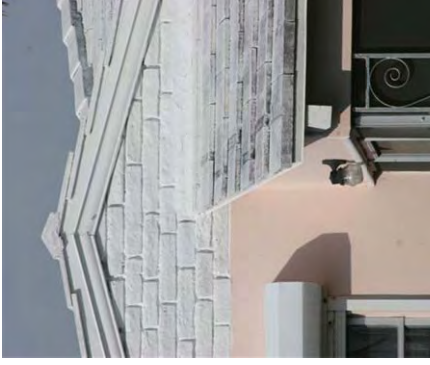
Roof Materials, Types and Slopes

Roof materials should be appropriate to the style of the house and, except for flat roofs or flat roof portions, should be the same product for the entire roof system. New materials designed for fire resistance are entirely appropriate as long as they replicate the traditional material.

Roof types and slopes should be generally the same over all parts of a single building. Exceptions are roof styles or architectural styles that traditionally involve varying slopes, such as architectural styles that sometimes combine flat and sloped roofs. In addition, hip overall roof designs are often used in combination with very small gable or shed roofs used to highlight a prominent element.

Restricted materials for roofs are pre-determined in the Town's Building Code, which restricts roofing materials to:

1. Clay tile;
2. White concrete tile;
3. Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is first approved by the planning and zoning board; and
4. Metal.

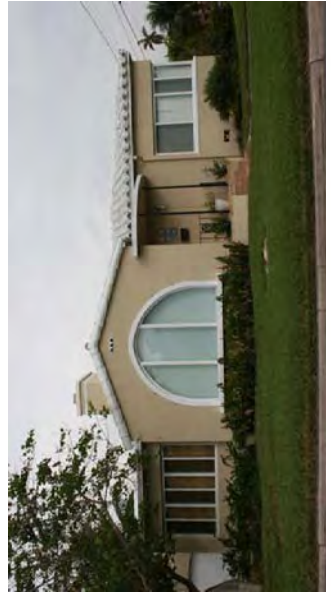


Windows and Trims

Window styles (double hung, casement, sliding, fixed, etc.) and frame materials (aluminum, wood, steel, etc.) are particularly important expressions of architectural style and should always be consistent among all elevations of a building. Window styles may vary depending on the specific use or size of the window for some architectural styles. Frame materials should never vary on a single building except in some limited cases when the frame material is being upgraded as in the case of renovations.

Window sizes and proportions are also important expressions of architectural style and should be consistent with the architectural style of the house. While window sizes on a single house most often vary by the purpose of the room, several styles, typically include larger uniform window heights all around the building. Several styles also traditionally employ the same window repeated in groups of two, three or four as a fundamental expression of the style.

Window, door and eave trim should be consistent on all elevations of the house, in terms of material, material dimensions and decorative features such as shape, carving, routing, reveals, etc. Replicating the original trim style for additions or remodels of older, traditional styles is particularly important.



Green Design

It is encouraged for all new construction to follow the LEED certification program. Higher LEED certifications (silver, platinum, etc.) are also encouraged.

Rehabilitation of existing structures should achieve the following standards to the greatest feasible extent:

- Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);
- Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
- Reduced coverage by asphalt, concrete, rock and similar substances in driveways and other areas to improve storm-water retention and reduce heat island effects.
- Installation of energy-efficient lighting in buildings, driveways, yards, and other interior and exterior areas;
- Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
- Planting of native shade trees to provide reasonable shade while remaining clear of overhead and underground utilities;
- Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- Provision for structural shading (e.g., trellises, awnings and roof overhangs) wherever practical when natural shading cannot be used effectively;
- Inclusion of shaded porch/patio areas; and



Historic Preservation

Initiate inventory of existing building stock by an architectural historian to determine and designate categories of historic preservation:

- Designated Historic Property
- Contributing Historic Property

Develop parameters to address the preservation,

- The restoration of at least 50% of the existing overall structure
- Restoration and preservation of 100% of the street front facades
- Historic Preservation-specific design review processes in accordance to the standards of the Secretary of the Interior.



Neighborhood Patterns

One of the challenges posed by new construction projects in existing residential neighborhoods is to create relationships between properties and streets that maintain adequate space, light and a sense of openness that complement the existing neighborhood's character.

Because the major objective of these guidelines is to ensure that new homes, additions and remodeling projects are appropriately compatible with the surrounding neighborhood, compliance with the guidelines in this chapter is essential for the preservation of the neighborhood character, and consistency with them will be an important component for those projects which qualify for approval.

Neighborhood Patterns Topics

- Overall Neighborhood Pattern Scheme
- Priority Lot Properties
- Property Designation Diagram
 - Community Gateway Properties
 - Community Window Properties
 - Corner Lot Properties
 - Waterfront Properties
 - Upgraded Rear and Side Architecture
- View Terminus Properties
 - Interior Lots
 - Multifamily
 - Commercial



Overall Neighborhood Pattern Requirements

The Overall Neighborhood Pattern Requirements should be applicable to all lots, irrespective of designation. These buildings should pay particular attention to the relationship between the street fronting facades, its treatment and articulation, and the street, always enforcing a pedestrian quality and character.

Priority Lot Properties

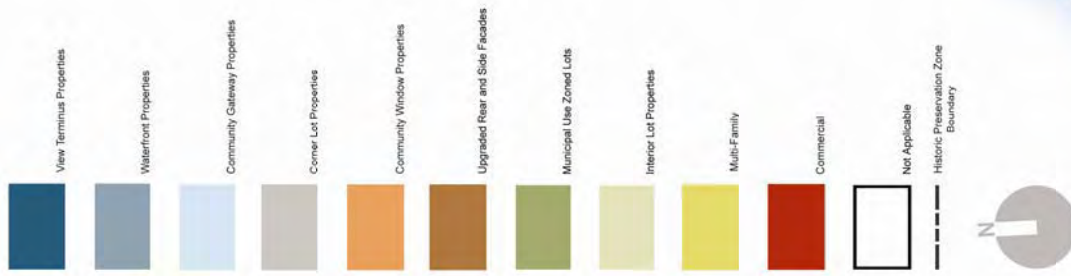
These guidelines identify important properties that aide in the definition of the edges defining the existing residential neighborhood. The strategic approach to identifying each and their importance acknowledges that dwellings in prominent locations, or "Priority Lots," have a higher degree of visibility within the public realm. Special design consideration is required for the publicly exposed elevations of these dwellings.

These priority lots are categorized as follows:

- Community Gateway Properties – properties that are located at important gateways to the neighborhood;
- Community Window Properties – properties that front an important visible edge to the neighborhood;
- Corner Lot Properties – properties that are located at corner lots within the neighborhood;
- Waterfront Properties – properties that have a waterfront exposure;
- Upgraded Rear and Side Facades – properties that have a rear or side façade that is publicly exposed.
- View Terminus – properties which location lines up with city street ends.
- Interior Lot Properties – properties located in the inner lots of the city blocks.



Property Designation Legend



Priority Lots – Community Gateway Properties

Community Gateway Properties are located at the entrances to the community from the external road system, principally Harding Avenue and 96th Street. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby. A high degree of architectural design quality will be expected for all elevations of these properties.

The preferred design is one that acknowledges the importance of the location and acknowledges the corner condition. The main entrance and driveways to garages or carports should face the entry roadway and should not face Harding Avenue or 96th Street. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Community Gateway Property, ensuring that:

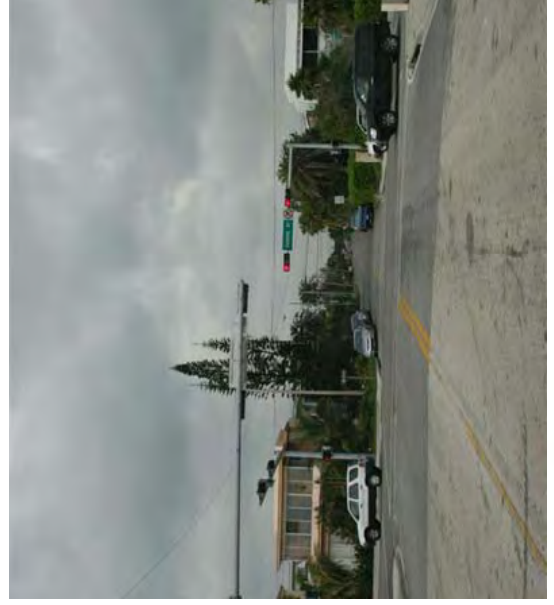
- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Wrap-around porches should be provided;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Gateway Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
Community Gateway Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front
			Rear
			Corner
			Interior Side*
			20' Ground
			20' Ground
			10' Ground
			5' Ground

Priority Lots – Community Window Property

Community Window Properties are located along the edges of the community, principally Harding Avenue, Abbott Avenue between 94th Street and 96th Street and on Bay Drive just across the street from the 96th Street Park. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby.

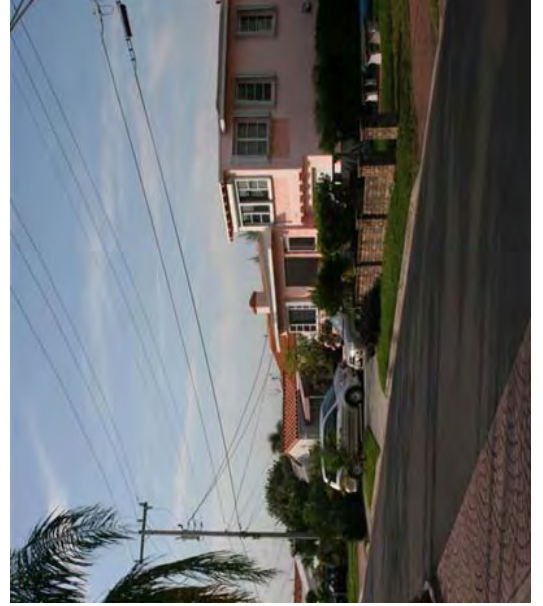
A high degree of architectural design quality will be expected for the street facing elevations of these properties. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for the aforementioned elevation of a Community Window Property.

The facades should ensure that:

- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades for at least half the depth of the side elevations, measured from the front facade;
- Roof forms should be enhanced;
- Garages should be recessed from the front entrance feature;
- Distinctive architectural elements should be employed where architecturally appropriate; and
- Special attention has been given to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Window Property Diagram



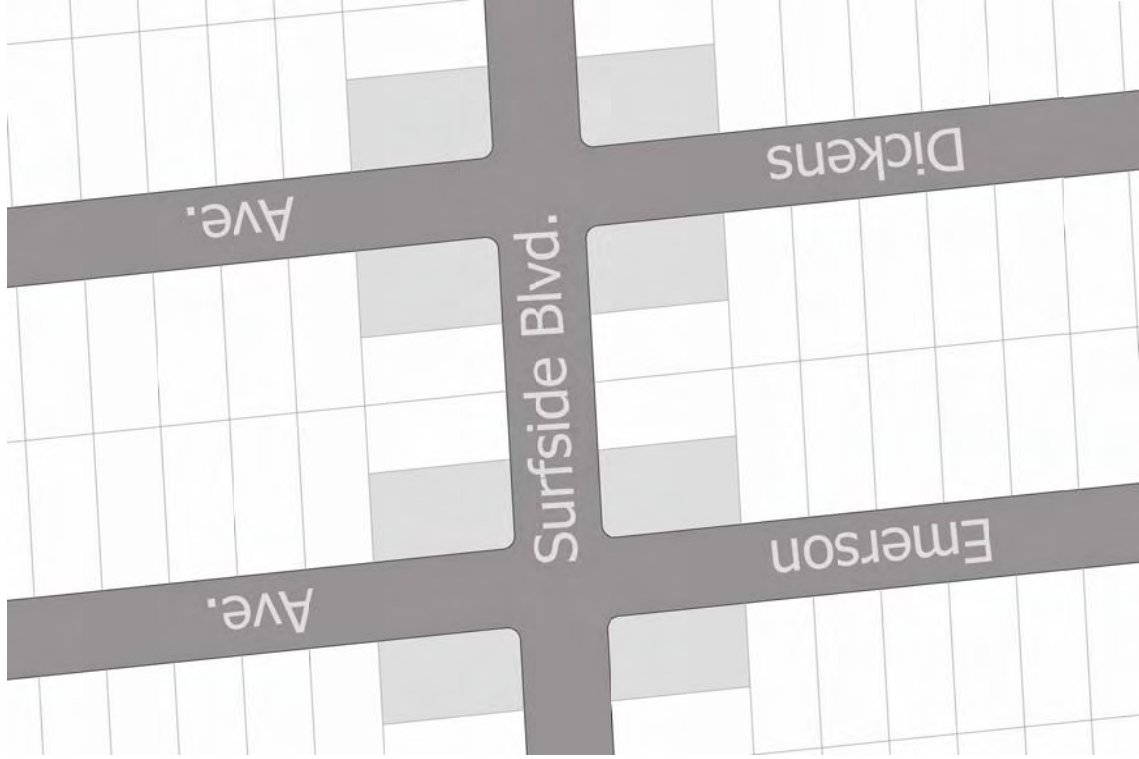
Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
Community Window Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front
			Rear
			Corner
			Interior Side*
			20' Ground
			20' Ground
			N/A
			5' Ground

Priority Lots – Corner Lot Properties

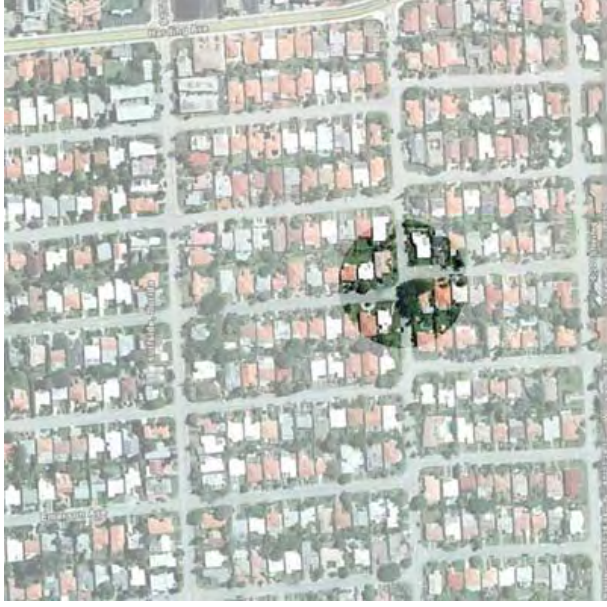
Corner Lot Properties are located at the internal street intersections. These properties play an important role in setting the image, character and quality of the street. These properties should address both street frontages in a consistent manner and incorporate ground-level detailing which reinforces the pedestrian scale of the street. The following criteria should apply:

- The main entrance and driveways to garages or carports should face the long side of the lot;
- Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Corner Lot Property, ensuring that:
- Wall cladding and finish treatments are consistent on all sides of the building;
 - A prominent entrance feature is encouraged;
 - There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
 - Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
 - Roof forms should be enhanced;
 - Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
 - Garages should be recessed with the front entrance feature;
 - Distinctive architectural elements should be employed where architecturally appropriate; and
 - Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Corner Lot Property Diagram



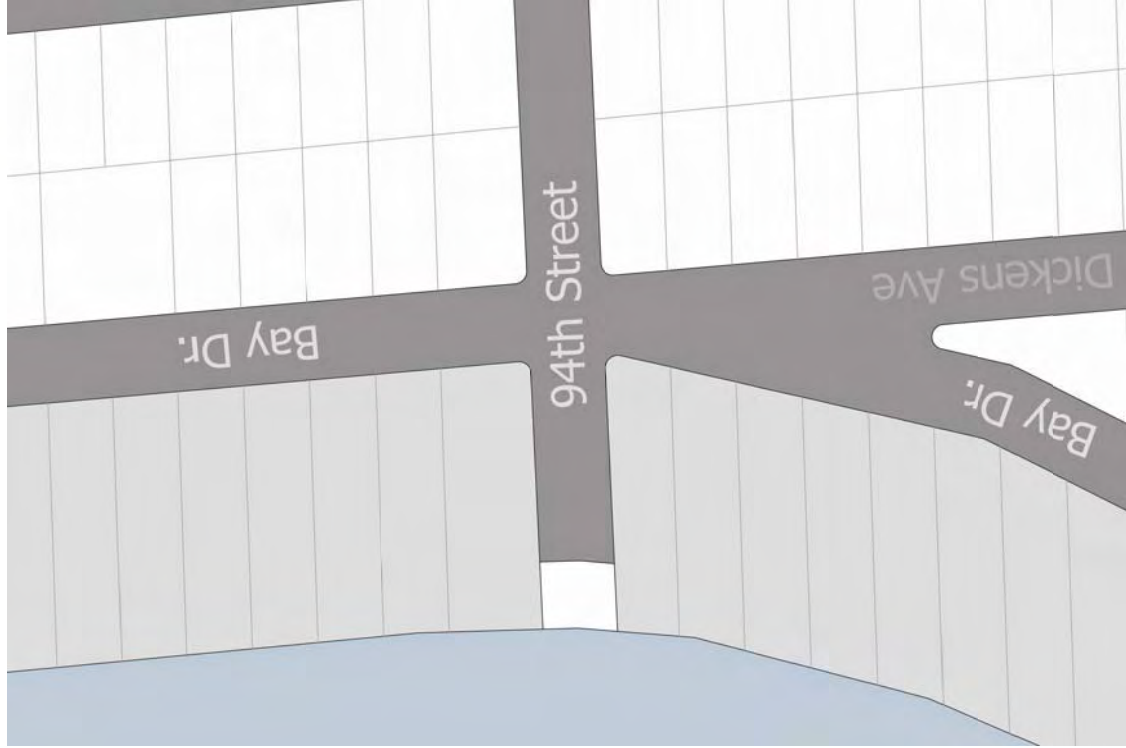


Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
Corner Lot Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front
			Rear
			Corner
			Interior Side*
			20' Ground
			20' Ground
			10' Ground
			5' Ground

Priority Lots – Waterfront Properties

Waterfront Properties are located at the waterfront edges of the neighborhood with at least one frontage onto Biscayne Bay. These properties play an important role in setting the image, character and quality of the neighborhood as perceived from the water. These properties should address both the street frontage and its water frontage in a consistent manner. The buildings should also incorporate ground-level detailing which reinforces a pedestrian scale at the street elevation.

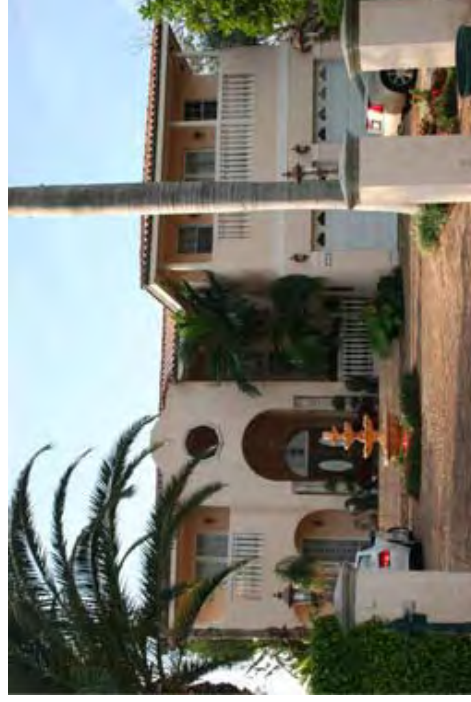


Waterfront Property Diagram

Priority Lots – Waterfront Properties

The following criteria should apply:

- Wall finish treatments are consistent on all sides of the building;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Front elevations should engage the street and should not be obstructed behind dense landscaping, carports or excessive setbacks.
- Building mass and volume distribution should be distributed so as to not create imposing structures abutting the street or abutting properties;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.





Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Waterfront Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear**	50' Ground
			Corner	10' Ground
			Interior Side*	5' Ground

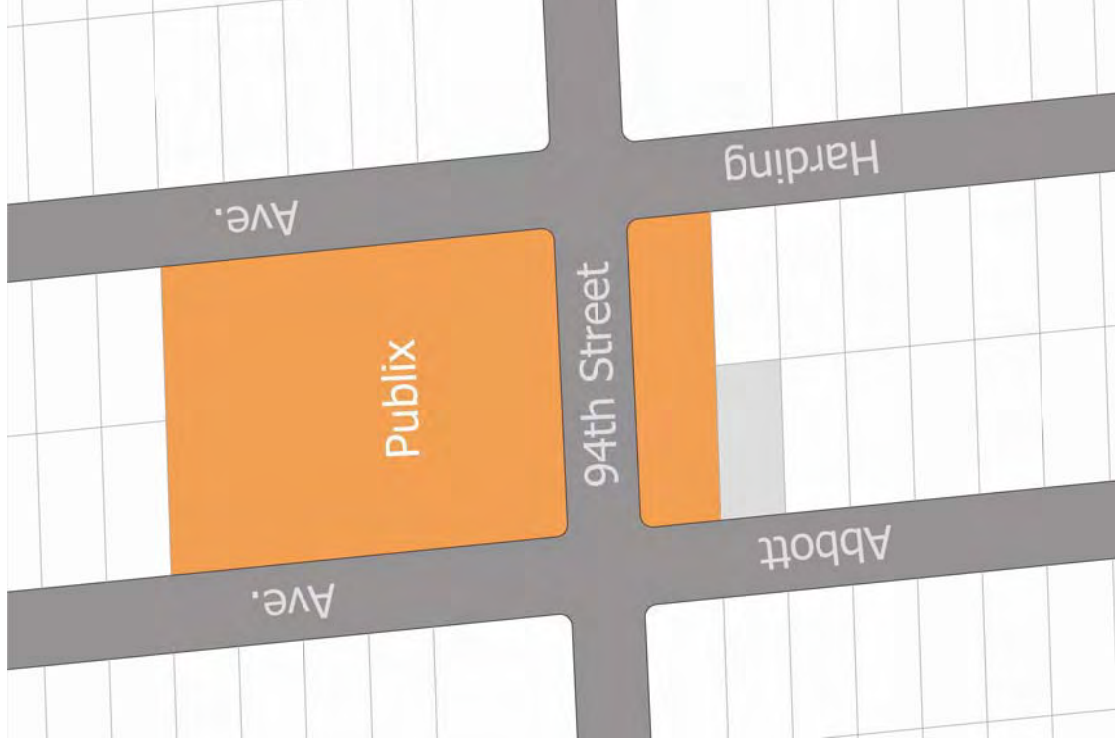
Priority Lots – Upgraded Rear and Side Architecture Properties

Upgraded rear and side architectural elevations are required where these elevations are exposed to public view. This occurs in the following situations:

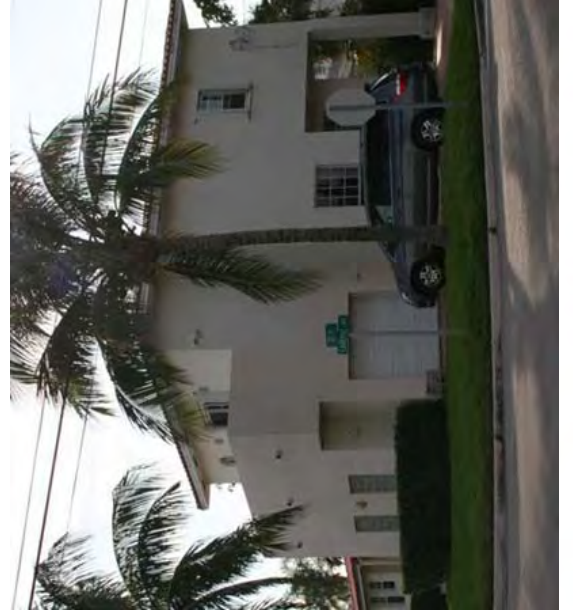
- Reverse frontage lots which back or flank onto a public road, or
- Lots which back or flank onto highly visible public uses such as open spaces, roads, parks, public walkways, institutional uses and commercial uses.

The exposed side and/or rear elevations of these buildings should have a level of quality and detail consistent with the front elevation. This should include, but not be limited to, features including:

- Enhanced window styles compatible with the architectural style of the overall design;
- Introduction of architectural features to evade blank, uninteresting walls;
- A balance of mass and voids achieved through the proper use of fenestrations; and
- The level of upgrade should be consistent with the level of public exposure.



Upgraded Rear & Side Architecture Property Diagram



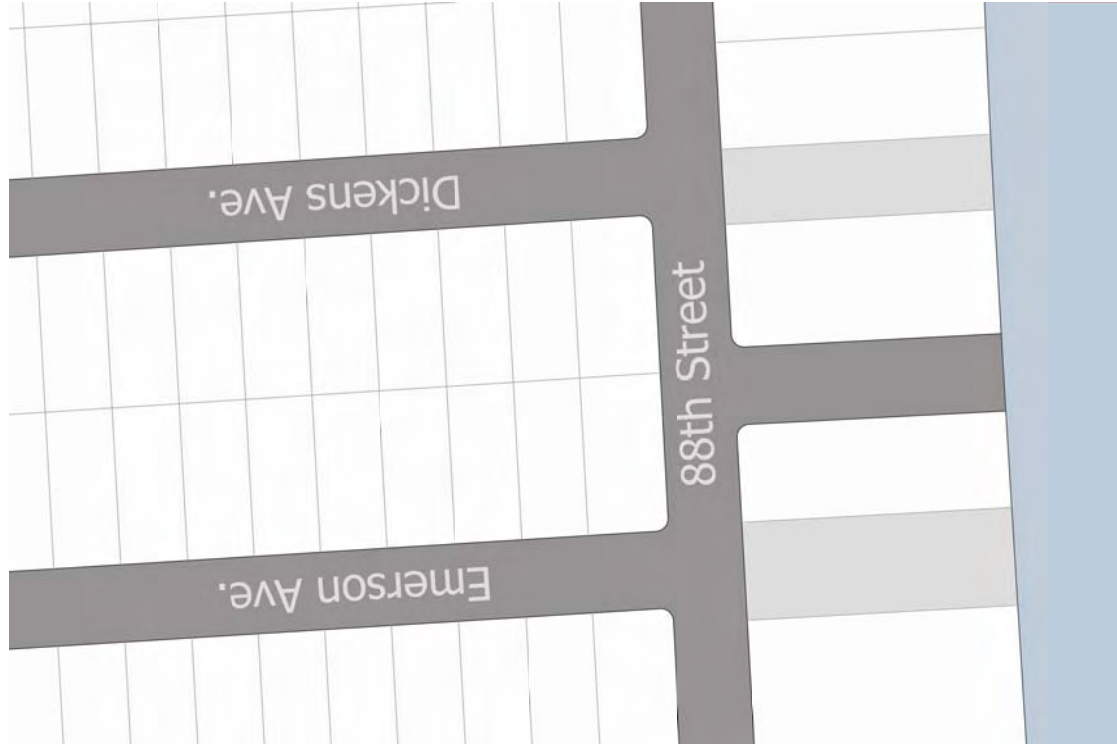
Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
Upgraded Rear and Side Architecture Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front
			Rear
			Corner
			Interior Side*

Priority Lots – View Terminus Properties

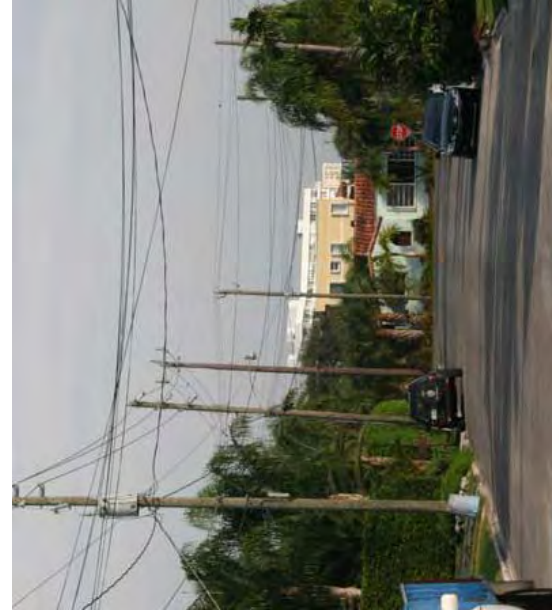
Terminus Lot Properties occur at the top of “T” intersections, where one road terminates at a right angle to the other. These properties play an important role in the streetscape by terminating a long view corridor. Corner lots opposite these properties should frame the view from the street. Because of their prominence, View Terminus Properties should include such enhancement features as:

- Driveways should be located to the outside of a pair of View Terminus Properties to increase landscaping opportunities and reduce the prominence of the garage on the view;
- A greater setback from adjacent dwellings is encouraged where lot depth permits; and
- Architectural treatments which provide visual interest will be required for these parcels.



View Terminus Property Diagram





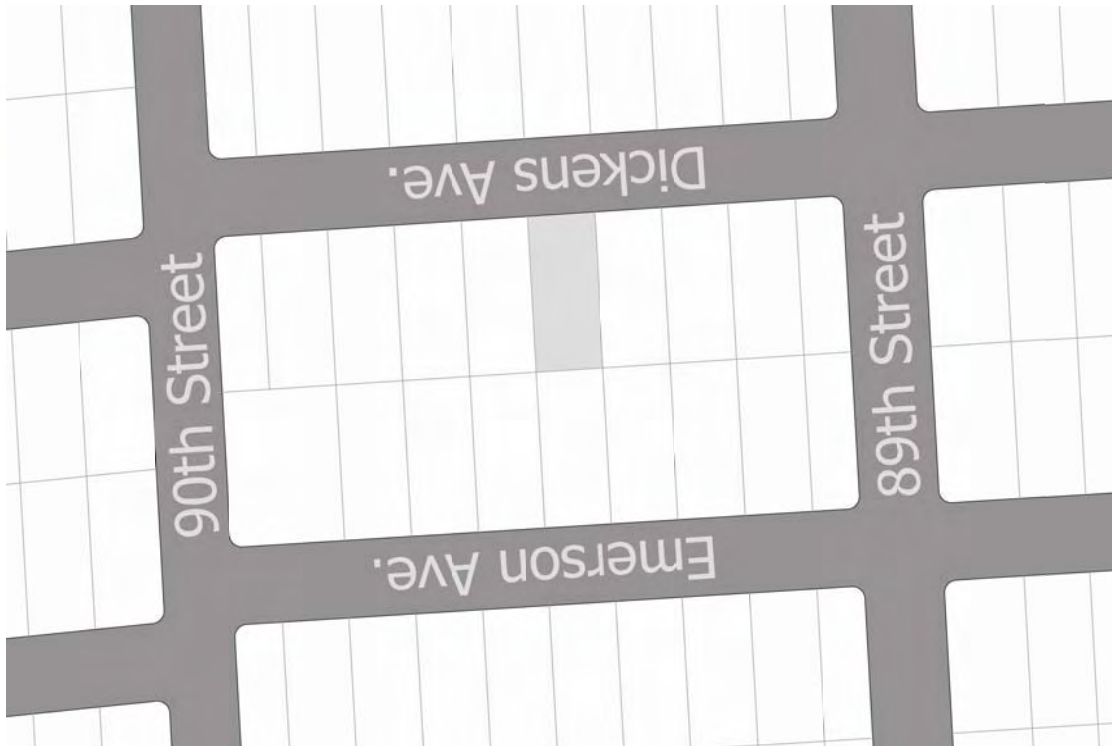
Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
View Terminus Properties	Per Existing Zoning Ordinance	30' Overall, 3 stories	Front
			Rear
			Corner
			Interior Side*
			20' Ground
			20' Ground
			N/A
			5' Ground

Priority Lots – Interior Lot Properties

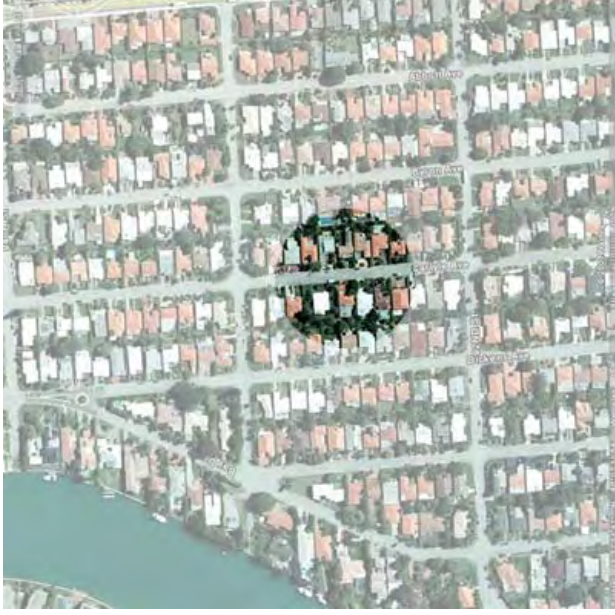
Interior lots will be applicable to the general design criteria applicable as the basis for all lots, including criteria determining:

- Massing and Volumes
- Decorative Features
- Overall Style
- Garage and Parking Driveways
- Relationships to Adjacent Properties
- Roof Materials, Types and Slopes
- Wall Material Finishes
- Windows and Trims



Interior lot Property Diagram





Massing Example

Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks
Interior Lot Property	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front
			Rear
			Corner
			Interior Side*
			20' Ground
			20' Ground
			N/A
			5' Ground

Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's commercial and multifamily districts by providing guidance for the design of new buildings within the existing area. These guidelines are intended to focus on the characteristics of architectural compatibility and to leave individual property-owners the maximum flexibility to build to meet their own needs and objectives.

All new building construction must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of buildings which harmonize with their surroundings and which demonstrate a high standard of quality.

Lastly, in order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of property-owners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about multifamily residential and commercial construction at a number of levels:

- Property-owners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new buildings, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions.
- Town residents should consult the Guidelines to understand the compatibility concepts which will apply to new construction.

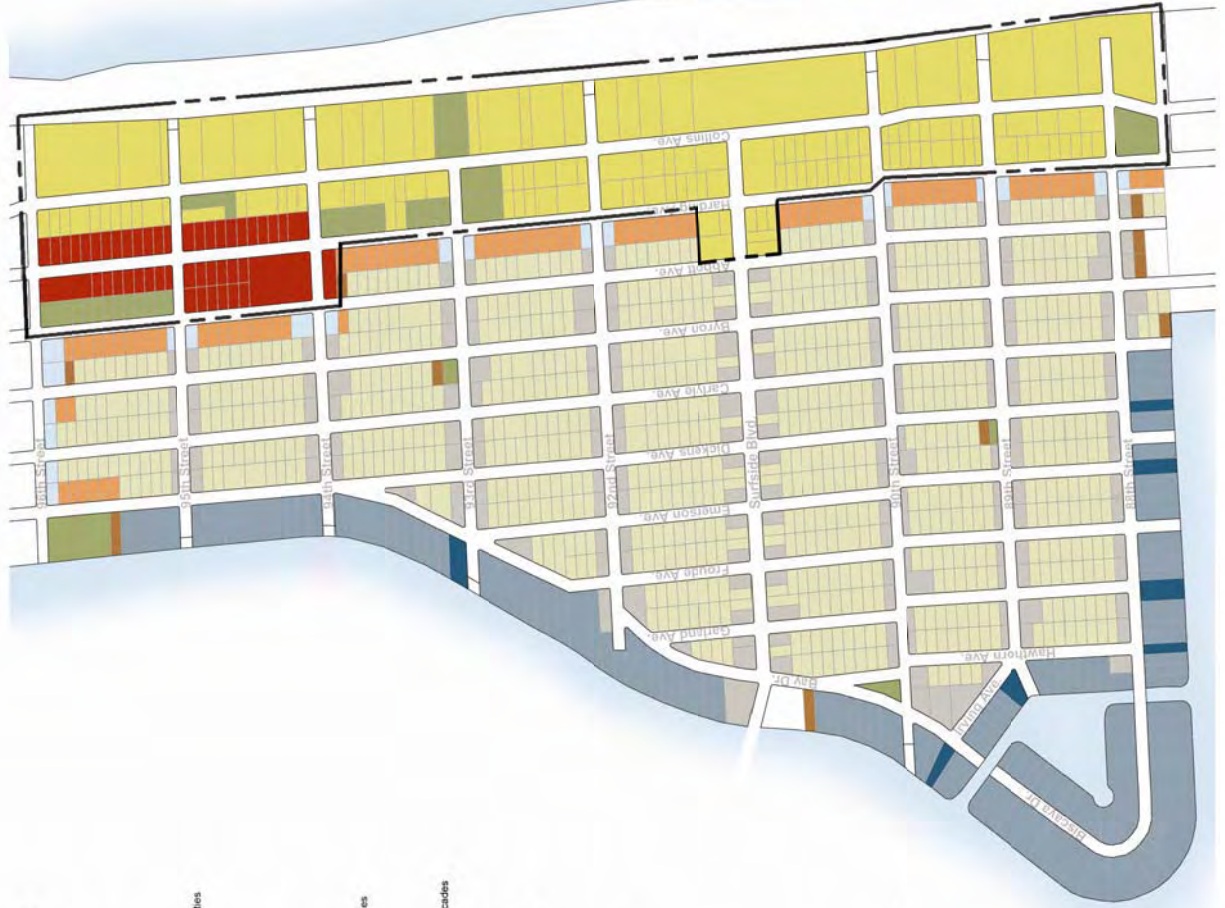
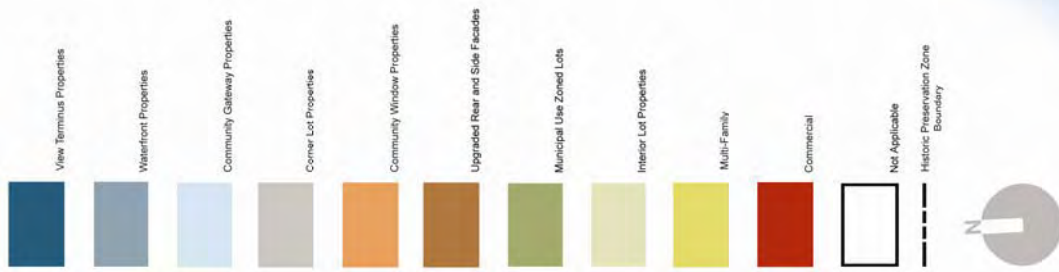
The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.



Property Designation Legend



A. STYLE AND BUILDING FORM

New construction should recognize the historic context and should be compatible in massing, scale, proportion and articulation with the context. The predominant characteristics of these architectural articulations include:

- Art Deco:* Flat roofs, applied decoration, symmetrical or asymmetrical massing, openings are variable in size, shape and proportion
- Mediterranean Revival:* low pitched roofs, monumental massing, textured stucco, arched openings, varied ornamentation
- Mid-Century Modern:* horizontal emphasis, flat roofs with extended overhangs, asymmetrical, emphasized material changes, minimal to non-existent ornamentation
- Streamline/Moderne:* soft flowing masses, round corners, smooth surfaces, asymmetry, flat roofs with parapets, minimal to non-existent ornamentation

The Town highly discourages the literal replication of historic buildings or styles.

B. VOLUMETRICS

1. Building volumes and heights should be articulated to express different building components, features and programmatic elements. Buildings with one continuous height are prohibited.
2. Building lengths should not exceed those limitations as expressed in the zoning code.
3. Additional height articulation beyond those regulated by these requirements is encouraged to provide appropriate scale, rhythm and articulation, provided that no element exceeds the maximum height limitation.



C. ARTICULATION

1. Wall Plane
Building facades should incorporate breaks in the wall plane to provide massing and articulation compatible with the historic context. No single wall plane should exceed 60 feet in length on any exterior façade and should provide a minimum of a 6-foot separation from abutting wall planes.
2. Height Variations
Height variations among architectural elements should have an expression of no less than 5 feet in variation. Buildings with one continuous height should not be allowed.
3. Façade Articulations
All building facades, including alleyways, should be rendered consistently with the overall architectural treatment of the building.
4. Roof Articulations
The town highly encourages the promotion of roof-top gardens on the commercial district, especially for properties with rooftop visible from residential uses or for rooftops overlooking the public Right-of-Way.

D. ENTRANCES, WINDOWS & STOREFRONTS

(Requirements affecting all building façades fronting a public Right-of-Way)

1. Pedestrian entrances should be easily recognizable and oriented towards the street.
2. Divided light window mullions, where provided, should be through the pane (i.e. true divided).
3. Exterior burglar bars, fixed “shutters” or similar security devices are prohibited.
4. Security shutters, if provided, should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with the overall architectural character of the building and its surface materials.
5. Impact resistant glass should be used in all window exposures, except ground level non residential uses.
6. Window and storefront articulations should utilize similar proportions as those within the surrounding context and should be primarily oriented towards the street.



- 7. Multiple storefronts within a larger building should have consistent material qualities and articulation and should relate to the detailing of the entire building.
- 8. The bottom edge of windows should be no less than 24 inches above the fronting finished sidewalk elevation
- 9. For non-residential uses, the first vertical 10 feet of building elevation should be composed of 50% minimum transparency. Required percentages of transparency should be applied to street-facing building facades and walls that provide separation between conditioned interior and un-conditioned exterior space. Requirements should be applied within the first 10 feet of height above the public sidewalk. When possible, the bottom of transparent openings should be no higher than 36 inches above the public sidewalk. Display windows used to satisfy these requirements should have a minimum vertical dimension of 4 feet and should be internally illuminated.
- 10. Mirrored and heavily tinted glass should not be permitted.
- 11. The use of exterior shading devices and insulated glass is highly encouraged.

E. AWNINGS, CANOPIES, 'EYEBROWS' AND BALCONIES

- 1. Balconies should not extend into the frontage setbacks and should not be less than five feet (5') in depth.
- 2. Awnings and canopies should be incorporated to provide pedestrian protection from the elements as well as reduce overall building heat gain. Encroachments by awnings and non-permanent canopies over the public sidewalk are permitted, but should not be greater than 6' or the width of the sidewalk, whichever is less.
- 3. Awnings, canopies, "eyebrows" and balconies should have consistent height and depth;
- 4. Awnings, canopies, "eyebrows" and balconies should remain consistent with architectural details and proportions harmonious with the overall building design and historic context;
- 5. Awnings, canopies, "eyebrows" and balconies should be consistent on multiple storefronts within a larger building.
- 6. Awnings should be fabric or metal. Plastic awnings are discouraged.
- 7. To reduce visual clutter, awnings should be solid colors rather than patterned.
- 8. Awnings should utilize down lighting. Backlighting is prohibited.

- 9. Awning valances should generally be straight rather than curved, except for special architectural elements to be compatible with historic building styles.
- 10. Awnings should be attached to the building façades and should not be supported by vertical elements within the R.O.W.
- 11. All new and replacement awnings should meet these requirements.

F. SERVICE AREAS AND MECHANICAL EQUIPMENT

- 1. Service bays, mechanical equipment, garbage and delivery areas, to the greatest extent possible, should be fully enclosed, screened or located within the interior of the building. These areas should not be visible from the Right of Way and should not be visible from properties with adjacent residential or hotel uses.
- 2. Central air conditioning is required for trash rooms.
- 3. All exterior equipment should be placed on the roofs and should be screened by an architectural feature. This feature may be allowed to exceed the maximum height limitation.
- 4. All exterior equipment should be architecturally screened.

G. UNDERGROUND AND ABOVE-GROUND UTILITIES

- 1. All utilities including telephone, cable, and electrical systems should be installed underground.
- 2. Large transformers should be placed on the first floor/ground and contained with pad mounts, enclosures or vaults.
- 3. All exterior facilities, including but not limited to electrical raceways and transformers, permitted above ground should be fully concealed and screened by landscape.

H. PARKING REQUIREMENTS

1. PARKING STRUCTURES

- a. Entrances to parking garages should not be from Collins or Harding Avenue frontages.
- b. Enclosed parking levels should have an exterior architectural treatment designed to be compatible with neighboring buildings and the area's context.
- c. All ground levels of a parking structure facing a public Right-of-Way should be lined with active liner uses or screened.

I. MATERIALS AND FINISHES

1. The predominant surface is stucco with various finish applications. Similar finishes are encouraged, as well as the use of prevalent vernacular materials, such as stone (with native characteristics), metal, glass block and accent wood. Materials vernacular or characteristic to other regions such as flagstone, adobe, etc. are highly discouraged.
2. Materials should be true and genuine, rather than simulated. Multiple storefronts within a larger building should have consistent material qualities and articulation.
3. Within high traffic areas, higher quality materials that are easily maintained (in lieu of painted stucco) should be incorporated at the building's base.
4. Asphalt shingles should be prohibited.
5. Site accessories and materials that have a demonstrated durability and lend themselves to recycling or are produced through recycling means should be preferred. Materials should be made to limit the use of non-renewable resources, retain cultural resources, reduce waste and reduce the impact of manufacturing and transport of materials.
6. Woods that are certified as being from sustainable sources as designated by the Forest Stewardship Council should be utilized.
7. CCA treated woods should be prohibited for finish surfaces.

J. MULTIFAMILY RESIDENTIAL AND HOTEL DESIGN CRITERIA

1. Separating elements, such as fences or walls should not be permitted between multifamily residential uses and fronting streets.
2. Entrances to residential and hotel uses should be kept separate from entrances to other uses in the building.

K. COMMERCIAL USES DESIGN CRITERIA

1. Frontages along Harding Avenue are encouraged to provide a minimum six foot (6') wide continuous non-removable awning.
2. External street-level entrances should be recessed and centered a minimum of 36" from the building frontage.
3. Restaurant uses should have air conditioned trash and garbage facilities.



L. EXTERIOR LIGHTING

1. All exterior lighting should avoid unnecessary, excessively strong or inefficient lighting through selection of appropriate fixtures for each application, use of high-efficiency fixtures and photocell controls to turn lights off during daylight.
2. Energy efficient fixtures and lamps such as Metal Halide cut-off lamps with efficient light distribution and up-to-date energy-efficient light bulbs are encouraged.
3. Solar power (photovoltaic panels) energy supply for outdoor lights should be provided where possible.
4. All lighting should be controlled by photocell controls.
5. Lighting provisions should be designed in a manner that reduces light pollution and are turtle-friendly with a full cut-off for 'dark skies.'

M. ENVIRONMENTAL STANDARDS

1. It is highly encouraged for all new construction to achieve LEED certification. Higher LEED certifications (silver, platinum, etc.) are also highly encouraged.
2. Rehabilitation of existing structures should achieve the following standards:
 - a. Provision of bicycle racks or storage facilities in recreational, office, commercial and multifamily residential areas;
 - b. Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc.);
 - c. Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
 - d. Installation of energy-efficient appliances and equipment;
 - e. Reduced coverage by asphalt, concrete, rock and similar substances parking lots and other areas to improve storm-water retention and reduce heat island effects.
 - f. Installation of energy-efficient lighting in buildings, parking areas, recreation areas, and other interior and exterior public areas;
 - g. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
 - h. Planting of native shade trees to provide a minimum of 40% shade for all recreation areas, sidewalks and parking areas in addition to east and west faces of buildings.
 - i. Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;

- j. Provision for structural shading (e.g., trellises, awnings and large roof overhangs) wherever practical when natural shading cannot be used effectively; use of the Florida Solar Energy Center Document FSECON-8-86 should be utilized for proper sizing and placement of shade devices.
 - k. Inclusion of shaded porch/patio areas in residential units; and
 - l. Use of recycled materials.
 - m. Use of light-colored materials.
 - n. Use of "cool roof" techniques (light colored roof, high reflectance EPDM membrane roof or a planted roof).
 - o. Provision of natural daylighting to lower energy use for lighting and to lower cooling loads.
 - p. Provision of natural ventilation strategies to induce air movement through the building such as breezeways, interior courtyards, water elements to create a cooling effect, operable windows, high ceilings, and fans.
- N. POTABLE WATER STANDARDS
- 1. All development should make adequate provisions for water conservation in accordance with the standards established by the USGBC LEED Rating System.
- O. SECURITY SHUTTERS STANDARDS
- 1. Security shutters should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with surface materials.



ORDINANCE NO. 2008-1504

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE "TABLE OF USES" IN SECTION 90.41.3 TO CREATE A NEW ZONING DISTRICT ENTITLED "COMMUNITY FACILITIES;" AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES INCLUDING BUT NOT LIMITED TO SECTION 90.43 ENTITLED "MAXIMUM BUILDING HEIGHTS," SECTION 90.45.1 ENTITLED "REQUIRED SETBACKS-TABLES;" SECTION 90.48.1 CONCERNING MODIFICATION OF SIDE AND REAR YARD REGULATIONS, SECTION 90.49 ENTITLED "LOT STANDARDS;" TO PROVIDE FOR REGULATIONS AND PERFORMANCE STANDARDS FOR USES IN THE CF ZONING DISTRICT; PROVIDING FOR ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside proposes to amend various sections of its Code of Ordinances to create a new zoning district entitled "Community Facilitates," which will be subject to certain regulations and performance standards; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, recommended approval of the proposed amendments to the Code of Ordinances on September 28, 2008 at a public hearing with due notice to the public and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after having received input and participation by interested members of the public and staff, and having considered the September 28, 2008 recommendation of the Town of Surfside Planning Board and staff, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on the proposed amendments as required by law and further finds the proposed changes to the Code necessary and in the best interest of the community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. The "Table - Regulated Uses" in Section 90.41.3, the table in Section 90.43 entitled "Maximum Building Heights;" the table in

Section 90.45.1 entitled "Required Setbacks - Tables;" the text in Section 90.48.1 and the table in Section 90.49 entitled "Lot Standards" are hereby amended as provided in attached Exhibit A.

Section 3. 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.

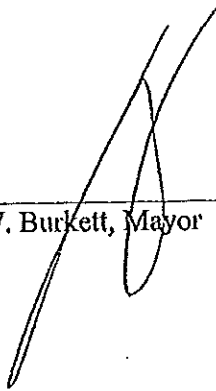
Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective on passage on Second Reading or as otherwise provided by Florida law.

PASSED and ADOPTED on first reading this 14th day of October, 2008.

PASSED and ADOPTED on second reading this 10th day of November, 2008.

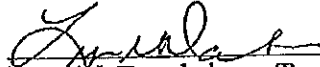


Charles W. Burkett, Mayor

Attest: 

Beatris M. Arguelles, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**


Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: Commissioner Levine

On First Reading Second by: Commissioner Calderon

Vote: 5-0

Mayor Burkett	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Imberman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Calderon	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Weinberg	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>

On Second Reading Moved by: Commissioner Levine

On Second Reading Second by: Commissioner Calderon

Vote:

Mayor Burkett	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Imberman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Calderon	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Weinberg	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>

EXHIBIT A

90.41.3

Table – Regulated Uses

Uses	Municipal	Community Facilities
Library	P	P
Parks & Open Space	P	P
Playgrounds	P	P
Community Center	P	P
Gymnasiums	P	P
Town Offices	P	P
Police Facilities	P	P
Pump Stations	P	

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted

Sec. 90.43

Maximum Building Heights

Designation	Maximum Height (Feet)
H30A	30 FT
H30B	30 FT
H30C	30 FT
H40	40 FT
H120	120 FT
SD-B40	40 FT
MU	Surrounding Designation
CF	70 FT

Sec. 90.45
90.45.1

Setbacks
Required Setbacks – Tables

CF	Maximum Setback (Feet)
Primary frontage	20 FT
Interior side	10 FT
Rear	20 FT
Secondary frontage (Corner only)	15 FT

Sec. 90.48
90.48.1

Modification of side and rear yard regulations

The minimum width of side setbacks for libraries, places of public assembly, recreational centers and other public, semipublic and civic buildings shall be a minimum of fifteen (15) feet, except when located within the Community Facilities district shall comply with Section 90.45.1.

Sec. 90.49

Lot Standards

Lot Standards	H30A	H30B	H30C	H40	H120	SD-B40	MU	CF
Minimum Lot width	50 FT	50 FT	50 FT	50 FT	60 FT	0 FT	-	-
Minimum lot area	8,000 FT	6,600 FT	-	-	-	-	-	-
Maximum Lot coverage	40%	40%	-	-	-	-	-	-
Minimum Pervious area	35%	35%	20%	20%	20%	-	-	-

ORDINANCE NO. 2007-1505

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING ITS OFFICIAL ZONING MAP TO REZONE THE PROPERTY FOR THE TOWN OF SURFSIDE'S PROPOSED COMMUNITY CENTER COMPLEX LOCATED ON 1) PROPERTY LOCATED AT 9301 COLLINS AVENUE, SURFSIDE, FLORIDA, LEGALLY DESCRIBED AS LOT 1, BLOCK 1 OF "SURFSIDE CENTER," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 70, PAGE 31, TOGETHER WITH LOT A, LYING AT THE FOOT OF 93RD STREET, FORMERLY KNOWN AS ROSE STREET, FACING ON THE ATLANTIC OCEAN AS SHOWN ON "ALTOS DEL MAR NO. 5," ACCORDING TO THE PLAT THEREOF IN PLAT BOOK 8, PAGE 92, ALL OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, FROM PUBLIC RECREATIONAL TO COMMUNITY FACILITIES; AND 2) PROPERTY LOCATED AT 9281 COLLINS AVENUE, SURFSIDE, FLORIDA, LEGALLY DESCRIBED AS LOT 11, BLOCK 1 "ALTOS DEL MAR NO. 5," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, AT PAGE 92 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, FROM MU AND H120 TO CF, SAID PROPERTIES BOTH LYING IN SECTION 35, TOWNSHIP 52 SOUTH, RANGE 42 EAST, TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA, AND CONTAINING A TOTAL NET AREA OF 80,326 SQUARE FEET (1.844 ACRES, MORE OR LESS); PROVIDING FOR ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE OFFICIAL ZONING MAP AND CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside proposes to amend its Official Zoning Map to change the zoning of two parcels of land from MU and H120 to CF in order to construct the proposed Community Center Complex; and

WHEREAS, concurrent with or prior to the review of this rezoning request, the Planning and Zoning Board, as the local planning agency for the Town, and the Town Commission have held public hearings on September 28, 2008 and October 14, 2008, respectively, with due public notice, on proposed amendments to the Future Land Use Map ("FLUM") contained in the Town of Surfside Comprehensive Plan, concerning these two parcels which would change the future land use designation for the parcels to CF; and

WHEREAS, concurrent with or prior to the review of this rezoning request, the Planning and Zoning Board, as the local planning agency for the Town, and the Town Commission have held public hearings on September 28, 2008 and October 14, 2008, respectively, with due public notice, on proposed amendments to the Code of Ordinances to create a new zoning category identified as CF as well as performance standards and regulations for uses in the CF zoning district; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, recommended approval of the proposed ordinance to create the CF zoning district and associated regulations and performance standards as well as approval of the proposed amendments to the FLUM, changing the future land use designation of these two parcels to CF and thereafter found the proposed rezoning to be consistent with the Comprehensive Plan, the FLUM, and the proposed new CF zoning district; and

WHEREAS, the Town Commission having reviewed the Planning and Zoning Board's recommendation, staff's analysis, and input from the public, the Town Commission finds the proposed

rezonings consistent with the Town's Comprehensive Plan, PLUM as adopted on October 14, 2008 and the new CF zoning district and that the rezoning of these parcels is in the best interest of the public and necessary to improve the quality of life for its residents.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Official Zoning Map. The zoning designation on the Official Zoning Map for Parcels 1 and 2 as described in Exhibit A, is hereby changed from MU and H120 to CF.

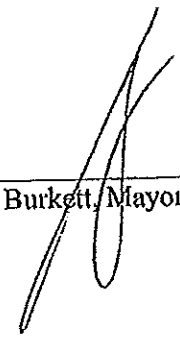
Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code and Zoning Map. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances and that the Official Zoning Map shall be revised so as to accomplish the intent of this Ordinance.

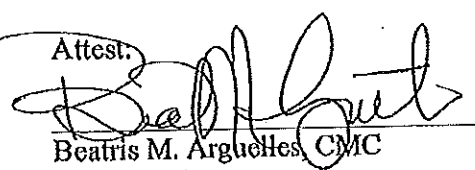
Section 6. Effective Date. This Ordinance shall be effective on the effective date of Ordinance 08-__ or as otherwise provided by Florida law, whichever is later.

PASSED and ADOPTED on this 14th day of October, 2008. - First Reading
Passed & adopted this 10th day of November 2008 - Second Reading




Charles W. Burkett, Mayor

Attest:



Beatris M. Arguñales, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


Lynn M. Dannheisser, Town Attorney

First Reading:

Moved by: Vice Mayor Imberman

Second by: Commissioner Weinberg

Vote: 5-0

Mayor Burkett	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Imberman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Calderon	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Levine	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Weinberg	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Second Reading:

EXHIBIT A
LEGAL DESCRIPTION
SURFSIDE COMMUNITY CENTER COMPLEX
TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA

Parcel 1: (9301 Collins Avenue)

Lot 1, Block 1 of "SURFSIDE CENTER", according to the Plat thereof, as recorded in Plat Book 70, Page 31 of the Public Records of Miami-Dade County, Florida.

TOGETHER WITH:

Lot A, lying at the foot of 93rd Street, formerly known as Rose Street, facing on the Atlantic Ocean as shown on "ALTOS DEL MAR No.5", according to the Plat thereof, as recorded in Plat Book 8, Page 92, of the Public Records of Miami-Dade County, Florida.

AND

Parcel 2: (9281 Collins Avenue)

Lot 11, Block 1, "ALTOS DEL MAR NO.5," according to the Plat thereof, as recorded in Plat Book 8, at Page 92 of the Public Records of Miami-Dade County, Florida.

Said lands lying in Section 35, Township 52 South, Range 42 East, Town of Surfside, Miami-Dade County, Florida and containing a total net area of 80,326 square feet (1.844 Acres), more or less.

ORDINANCE NO. 2009-1510

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, CREATING ARTICLE IX, SECTION 90.99, ENTITLED "RELIGIOUS LAND USE RELIEF PROCEDURES," TO IMPLEMENT POLICY TO AVOID UNINTENDED VIOLATIONS OF THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000 AND THE FLORIDA RELIGIOUS FREEDOM RESTORATION ACT OF 1998; PROVIDING FOR ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside proposes to create a new procedure in its Code of Ordinances to provide immediate relief to persons or religious assemblies or institutions who may have unintentionally been substantially burdened, excluded or otherwise discriminated against in the exercise of their religion; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, recommended approval of the proposed amendments to the Code of Ordinances on December 18, 2008 at a public hearing with due notice to the public and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after having received input and participation by interested members of the public and staff, and having considered the recommendation of the Town of Surfside Planning and Zoning Board sitting as the LPA and having found the proposed Code changes to be consistent with the Comprehensive Plan; and

WHEREAS, the Town Commission has conducted two public hearings with the second being a duly noticed public hearing on the proposed amendments as required by law and further finds the proposed changes to the Code necessary and in the best interest of the community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. Article IX, Section 90.99, entitled "Religious Land Use Relief Procedures," is hereby created to read as follows:

This section implements the policy of the Town for addressing possible unintended violation of the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. Sec.

2000cc et seq. ("RLUIPA") and the Florida Religious Freedom Restoration Act of 1998 ("RFRA") identified during implementation of this Code, and related rules, policies, and procedures.

1. A person, including a religious assembly or institution, may request relief under this Section in writing by completing a Religious Land Use Relief Request form, which is available from the Town's Planner. The form shall contain such questions and requests for information as are necessary for evaluating the relief requested.

2. The Town Commission shall have the authority to consider and act on requests for reasonable relief submitted to the Town Planner, after notice as provided in Subsection (h). The purpose of the public hearing is to receive comments, input and information from the public, which shall be taken under advisement by the Commission. The Commission may: (1) grant the relief requested, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any denial shall be in writing and shall state the reasons the relief was denied. The Commission may request additional information from the requesting party, specifying in sufficient detail what information is required and may defer a decision until the following regularly scheduled Commission meeting. The requesting party shall have fifteen (15) days after the date the information is requested to provide the needed information.

3. If the requesting party fails to provide the requested additional information within the fifteen (15) day period, the Town Attorney shall issue a written notice advising that the requesting party had failed to timely submit the additional information and that the request for relief shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable relief request shall be required.

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4. In determining whether the reasonable relief request shall be granted or denied, the applicant shall be required to establish all of the following:

a. The applicant is a claimant under RLUIPA or RFRA; and

b. The Town has imposed a substantial burden on the religious exercise of the applicant, whether a person, religious assembly or institution, and the burden is not a result of the Town furthering a compelling governmental interest and is not the least restrictive means of furthering that compelling governmental interest; or

c. The Town has imposed or implemented a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution, discriminates on the basis of religion or religious denomination, excludes religious assemblies from a jurisdiction or unreasonably limits religious assemblies, institutions or structures within a jurisdiction.

5. No fee shall be imposed by the Town in connection with a request for reasonable relief under this Section. The Town shall have no obligation to pay a requesting party's or an appealing party's attorney fees or costs in connection with the request for an appeal.

6. While an application for reasonable relief is pending before the Town, the Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.

7. The Town shall display a notice in the Town's public notice bulletin board and shall maintain copies available for review in the Town Clerk's Office, advising the public that a request for relief under RLUIPA or RFRA has been filed with the Town Commission.

Section 3. 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.

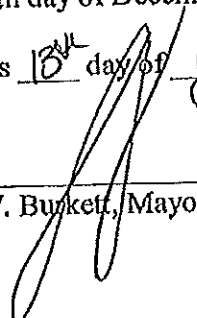
Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective on passage on Second Reading or as otherwise provided by Florida law.

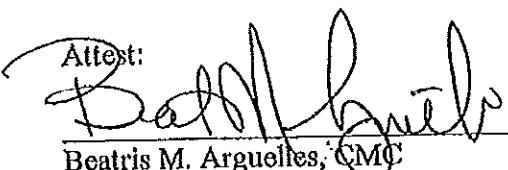
PASSED and ADOPTED on first reading this 9th day of December, 2008.

PASSED and ADOPTED on second reading this 10th day of January, 2009.



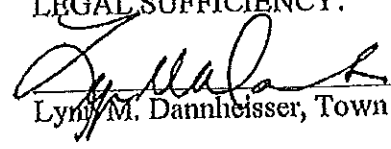
Charles W. Burket, Mayor

Attest:



Beatris M. Arguelles, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: Vice Mayor Embury

On First Reading Second by: Commissioner Weinberg

Vote:

Mayor Burkett yes no _____
Vice Mayor Imberman yes no _____
Commissioner Calderon yes no _____
Commissioner Levine yes no _____
Commissioner Weinberg yes no _____

TOWN OF SURFSIDE

9293 Harding Avenue, Surfside, Florida 33154-3009
Phone: (305) 861-4863 -- Fax: (305) 861-1302

Religious Land Use Relief Request Form

Request # _____

Date Completed Form Filed: _____

INSTRUCTIONS TO APPLICANT:

1. Complete all questions on this form.
2. Attach all required attachments.
3. No fee is due for filing this request or for appeal to the Town Commission.
4. If applicant is a religious assembly or institution, include a copy of any, applicable governing documents.
5. If applicant is a religious assembly or institution, include a copy of business license receipt, if any has been issued or applied for.
6. For answers to questions concerning completion of this form, contact the City Attorney at 305-861-4863.

I. RELIGIOUS ASSEMBLY OR INSTITUTION INFORMATION

Name of Applicant (or Applicant's Representative, if a religious assembly or institution)

Mailing Address:

Telephone Number:

Fax Number:

Email Address:

What property or use is affected by the land use regulation, etc, which forms the basis for this request?

What legal interest do you have in this property?

- a. If you are the owner, attach a copy of your deed.
- b. If you are a lessee, attach a copy of your lease.
- c. If you hold an option, attach a copy of the option agreement.
- d. Attach relevant documentation regarding any other interest you may have in the property.

II. RLUIPA AND RFRA RELIEF REQUEST

Provide specific answers to the following questions: (Attach separate pages as necessary)

1. Are you requesting relief in advance of filing a RLUIPA or RFRA claim against the Town in state or federal court? (Yes/No)

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2. What land use regulation, rule, policy, procedure, practice or administrative decision is the basis for your claim?

3. What religious exercise or activity was affected by this land use regulation, policy, rule, practice, procedure or administrative decision?

4. Do you believe the implementation of a Town land use regulation (code, rule, policy, practice or procedure) has substantially burdened your ability to engage in religious exercise? (Yes/No)

5. How has this land use regulation, etc. or its implementation substantially burdened your ability to engage in religious exercise or activity?

6. If the substantial burden was imposed by an administrative decision, what is the date of the decision? _____

a. Who made the decision? _____

b. Was an administrative appeal filed? _____

7. Do you believe you or your religious assembly or institution has been treated on less than equal terms, in a discriminatory manner, excluded or unreasonably limited in comparison to another individual or nonreligious assembly or institution or in the practice of a religious exercise? (Yes/No)

If so, how? _____

8. Indicate the specific relief you are requesting.

9. Indicate all contact you have had with the Town regarding your situation by identifying who you contacted, when this individual was contacted and a summary of the conversation or action resulting from the contact. Please list in chronological order.

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III. APPLICANT ACKNOWLEDGEMENT

I/We: _____, do hereby swear/affirm that I/we am/are the owner(s), or holder of a real property interest in the property referenced in this form and that all necessary consents from any other interest holders in the property referenced in this form have been obtained prior to filing this Request for Relief under Section 23-95(d) of the Town of Surfside Code of Ordinance.

I/We certify that the above statements and the statements and any attached documents, including but not limited to construction or design plans, are true to the best of my/our knowledge and belief. Further, I/we understand that this form and its attachments become part of the official record of the Town. I/We understand that any knowingly false information given by me/us will result in the denial, revocation or administrative withdrawal of the relief requested. I/We further acknowledge that additional information may be required by the Town during the processing of this form and I/we are willing to cooperate to provide such information or withdraw our Request for Relief as provided in Section 90.99 of the Code of Ordinances.

I/We further give consent to the Town to publish, copy or reproduce any copyrighted document for any third party submitted as an attachment this form.

Signature(s) of Applicant(s): _____

Print Name(s): _____

IV. CONSENT STATEMENT

(Owner to complete if Applicant is not the fee simple title owner.)

I/We, the aforementioned owner(s), do hereby give consent to _____ to submit this application, prepare all required material and documents, attend and represent me/us at all meetings and public hearings pertaining to the request(s) and property I/we own described in the attached application. Furthermore, as owner(s) of the subject property, I/we hereby give consent to the party designated above to agree to all terms or conditions that may arise as part of the approval of this application for the proposed use.

Signature(s) of Owner(s): _____

Print Name(s): _____

* If multiple owners of the subject property, attach additional consent and notarized forms for each owner or interest holder. If the owner or interest holder is married, joinder of spouse is required.

V. NOTARY

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____, He/She is personally known to me or has produced _____ as identification and did/did not take an oath.

_____ My Commission Expires: _____

(Signature of Notary)

(NOTARY'S SEAL OR STAMP)

(Name - Must be typed, printed, or stamped)

VI. STAFF USE ONLY

1. Identify a compelling governmental interest at issue with Applicant's claim:

2. Identify any alternative and less restrictive means available to further the compelling governmental interest:

VII. ADJACENT PROPERTIES			
Adjacent Property	Land Use Plan Designation	Zoning Designation	Existing Use(s) of Property
NORTH			
SOUTH			
EAST			
WEST			

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VIII. SUBMITTAL CHECKLIST	
REQUIRED	
Date Completed Form Received	
Date Public Hearing Scheduled (21 days after receipt of completed form)	
Date(s) additional information requested from applicant(s)	
Date(s) additional information received	
Date Town Manager's written determination is due (45 days after receipt of completed form)	
Supporting Documents attached	Yes/No
Copy of Local Business Tax Receipts attached	Yes/No
Request Properly noticed	Yes/No
Date of appeal to Town Commission filed (30 days from date of manager's determination)	

IX. TOWN OF SURESIDE CODE

Section 90.99 This section implements the policy of the Town for addressing possible unintended violation of the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. Sec. 2000cc et seq. ("RLUIPA") and the Florida Religious Freedom Restoration Act of 1998 ("RFRA") identified during implementation of this Code, and related rules, policies, and procedures.

1. A person, including a religious assembly or institution, may request relief under this Section in writing by completing a Religious Land Use Relief Request form, which is available from the Town's Planner. The form shall contain such questions and requests for information as are necessary for evaluating the relief requested.

2. The Town Manager, or his/her designee, shall have the authority to consider and act on requests for reasonable relief submitted to the Town Planner, after notice as provided in Subsection (h). The purpose of the public hearing is to receive comments, input and information from the public, which shall be taken under advisement by the Town Manager or designee. The Town Manager, or designee, shall issue a written determination within thirty (30) days of the public hearing and may: (1) grant the relief requested, (2) grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request, or (3) deny the request, in accordance with federal law. Any denial shall be in writing and shall state the reasons the relief was denied. All written determinations shall give notice of a right to appeal. The notice of determination shall be sent to the requesting party by certified mail, return receipt requested.

If necessary, the Town Manager, or designee, may, prior to the end of said thirty (30) day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have fifteen (15) days after the date the information is requested to provide the needed information. In the event a request for additional information is made, the thirty (30) day period to issue a written determination shall no longer be applicable, and the Town Manager, or designee, shall issue a written determination within thirty (30) days after receipt of the additional information.

3. If the requesting party fails to provide the requested additional information within the fifteen (15) day period, the Town Manager, or designee, shall issue a written notice advising that the requesting party had failed to timely submit the additional information and that the request

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for relief shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable relief request shall be required.

4. In determining whether the reasonable relief request shall be granted or denied, the applicant shall be required to establish all of the following:

a. The applicant is a claimant under RLUIPA or RFRA; and

b. The Town has imposed a substantial burden on the religious exercise of the applicant, whether a person, religious assembly or institution, and the burden is not a result of the Town furthering a compelling governmental interest and is not the least restrictive means of furthering that compelling governmental interest; or

c. The Town has imposed or implemented a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution, discriminates on the basis of religion or religious denomination or excludes religious assemblies from a jurisdiction or unreasonably limits religious assemblies, institutions or structures within a jurisdiction.

5. Within thirty (30) days after the Town Manager's, or designee's, determination on a reasonable relief request is mailed to the requesting party, such applicant may appeal the decision to the Town Commission. All appeals shall contain a statement explaining the reason for the appeal. The Town Commission shall, after giving public notice pursuant to Subsection (8) and conducting a public hearing no later than sixty (60) days after an appeal has been filed, make a determination as soon as reasonably practicable to uphold, reverse or modify in whole or in part the Town Manager's determination.

6. No fee shall be imposed by the Town in connection with a request for reasonable relief under this Section or for an appeal of a reasonable relief determination to the Town Commission. The Town shall have no obligation to pay a requesting party's or an appealing party's attorney fees or costs in connection with the request for an appeal.

7. While an application for reasonable relief, or appeal of a determination of same, is pending before the Town, the Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the Applicant.

8. The Town shall display a notice in the Town's public notice bulletin board and shall maintain copies available for review in the Town Clerk's Office, advising the public that a request for relief under RLUIPA or RFRA has been filed or appealed to the Town Commission.

ORDINANCE NO. 09-1514

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING SECTION 90.19.8 REQUIRED FOR SUBMITTAL TO DESIGN REVIEW BOARD, SECTION 90.2 "DEFINITIONS" TO INCLUDE FLOOR AREA RATIO; AMENDING 90.41.4 TO DELETE SECTION 1.d. AMENDING SECTION 90.45 RELATIVE TO BUILDING MASSING, LOT COVERAGE, AND SETBACKS IN THE H30A, H30B ZONING DISTRICTS; RENUMBERING SECTIONS 90.45; AMENDING SECTION 90.48 TO CREATE A RESTRICTION ON NEW BALCONIES AND DECKS; AMENDING SECTION 90.50 TO PROVIDE DESIGN STANDARDS APPLICABLE TO ZONING DISTRICTS H30A AND H30B ALL WITH REFERENCE TO CONTROLLING THE SCALE AND MASS OF THE EXPANSION OF SINGLE FAMILY HOMES AS WELL AS NEW AND REDEVELOPED SINGLE FAMILY HOMES; PROVIDING FOR A REVISION TO SECTION 90.61.1 RELATING TO PAVERS AND PERVIOUS SURFACES AND TO CREATE SECTION 90.h. DESCRIBING ALLOWABLE DRIVEWAY MATERIALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside proposes to amend its Code of Ordinances to address the impacts on the integrity of the Town's single family home districts resulting from the expansions or redevelopment of existing single family homes or newly constructed homes which are out of scale and mass with the existing character of the neighborhood in which they are located; and

WHEREAS, the Town has determined the existing regulations do not sufficiently address this problem and attempting to address this issue through the design review process has yielded insufficient results; and

WHEREAS, the Town finds it is in the public interest to preserve the quality of its residential neighborhoods and address this issue through uniform and enforceable zoning code regulations of FAR, lot coverage, setbacks, as well as architectural design; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held public hearings on October 30, 2008, November 20, 2008, December 18, 2008 and January 29, 2009 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after due public notice, and having received input and participation by interested members of the public and staff, and having considered the Town of Surfside Planning & Zoning Board's recommendation, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan; and

WHEREAS, the Town Commission held its first public hearing on Feb 10, 2009, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on April 14, 2009 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. The Code of Ordinances shall be amended as follows:

90.19.8 The following are required for submittal to the Design Review Board:

5. Surrounding Context:

Provide recent photographs, as visible from the street, of the subject property and of the adjacent two (2) homes on each side of the subject property on the same side of street. If the adjacent lot(s) are vacant then the next adjacent home(s) shall be utilized.

Ordinance No. 09-1514

Definitions.

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

Bulk: A composite characteristic of a given building or structure as located upon a given lot, not definable as a single quantity but involving all of these characteristics: 1) size and height of building or structure, 2) location of exterior walls at all levels in relation to lot lines, streets or to other buildings or structures, 3) all open spaces allocated to the building or structure, and 4) amount of lot area provided per dwelling unit, and 5) lot coverage.

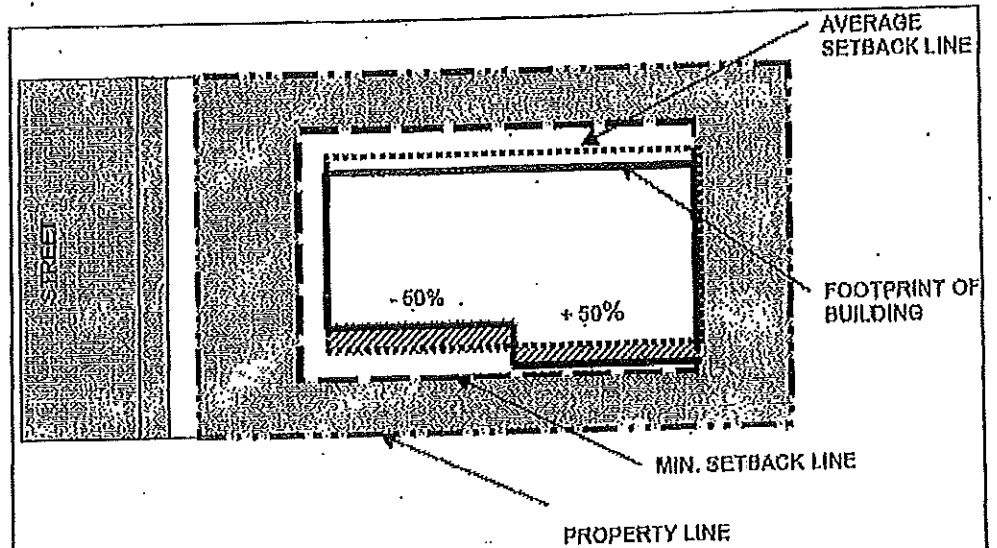
Floor area: the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. Basement space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

1. In particular, floor area ~~includes including~~ (but not limited to):
 - a. Elevator shafts or stairwells at each floor.
 - b. Floor space used for mechanical equipment.
 - c. Floor space in penthouses.
 - d. Attic floor space (whether or not a floor has been laid) providing structural headroom of seven (7) feet six (6) inches or more.
 - e. Floor space in interior balconies or interior mezzanines.
 - f. Floor space in porches and pools enclosed with plastic, glass or permanent type of material.
 - g. Any floor space used for residential use, no matter where located within the building.
 - h. Garages (attached and unattached), sheds and accessory buildings.
2. However, the floor area of a building shall not include:
 - a. Basement space when used for parking of vehicles, as provided in the design standards for underground parking in this Code.
 - b. Accessory water tanks or cooling towers.
 - c. Uncovered steps and exterior balconies.
 - d. Interior balconies. The width of an interior balcony shall not be greater than the depth.
 - e. Covered or uncovered terraces, patios, breezeways, or porches which are open on two (2) sides.

Massing -- the expression of interior volume as form

Pervious Area: Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water directly into the ground. Pavers or pervious hard materials, including pervious concrete, shall not be utilized for the calculation of pervious area.

Setback (average): the average minimum distance required by a zoning district that all structures shall be from front, side and rear lot lines. [The following diagram will illustrate how the average setback is utilized.]



How an average setback works

The diagram above shows the building footprint varying around the average setback line. If the builder chooses to construct in the area between the minimum setback lines and the average setback line (area shaded red), an equal area within the average setback line must be sacrificed (area shaded blue). In this example a simple 50/50 split is made at the mid point of the side yard facade of the building.

Note that any number of variations can occur around the average setback line just as long as the sum of the areas outside of the average setback line balance with the sum of the areas sacrificed within the average setback line.

The builder has the option of building continuously along the average setback line without variation. The builder also can construct anywhere within the average setback line in any variation.

Step-Back: A portion of a building set back from the portion below it. Step-backs shall be measured from building line rather than from lot line.

Sec. 90.41.4

Uses Table Notes

1. Detached single-family dwellings, subject to the following restrictions and limitations, as follows:

- d. ~~When a garage is converted for any other use, the garage door or doors may be replaced by a solid exterior wall and access to the former garage area must be provided from the main premises, in addition to any other permitted access. At least one (1) window shall be provided. It is intended hereby to prohibit and prevent any violation of the~~

Ordinance No. 09-1514

single-family classification and to minimize the burden upon the administrative forces of the Town in policing and enforcing the provisions hereof. Changes to the appearance of the residence shall not constitute a change prohibited by the "Home Office" provision of this Code. If the exterior door of the garage conversion is no longer level with grade, stairs may be installed and the exterior door must be accordingly corrected to comply with the Florida Building Code. The stairs shall be permitted to encroach no more than twenty-four (24) inches into the side or rear setbacks.

90.45(a).1 Required Massing - The development of new single-family structures and additions to existing single-family structures shall abide by height and massing regulations.
Massing regulations are based on the height of the structure and are delineated between (a) single and multi-story structures (b) new structures or additions to existing structures and (c) the ratio of area of the first story to the area of the upper stories.
The area of the upper stories (wall plane greater than fifteen (15) feet in height) for new structures and additions to existing single-story structures shall not exceed eighty (80%) percent of the area of the first story.

90.45(a).2 Required Massing - The following table shall be utilized for new single-story structures and single-story additions to existing single-story structures (up to fifteen (15) feet in height) in both the H30A and H30B districts.

H30A and H30B (Single story structures up to 15 feet in height)	Percentage
Maximum Lot Coverage	40%
Single story structures	Minimum Setback
Primary frontage	20 FT
Interior side (lots equal to or less than 50 feet in width)	5 FT
Interior side (lots over 50 feet in width)	10% of the frontage
Rear	20 FT
Secondary frontage (Corner only)	10 FT

90.45(a).3 Required Massing - For single family homes within the H30A and H30B districts, the following table shall be utilized for new multi-story structures or multi-story additions (additions greater than fifteen (15) feet in height) to existing single-story structures where the upper-story floor area is less than fifty (50%) percent of first-story floor area.
Where applicable, both the minimum and average setbacks shall be utilized.

H30A and H30B Upper story floor area is less than 50% of first story floor area	Percentage
Maximum Lot Coverage	40%
First story (up to 15 feet in height)	Setback
Primary frontage	Minimum 20 FT
Interior side (lots equal to or less than 50 feet in width)	Minimum 5 FT

Interior side (lots over 50 feet in width)	Minimum 10% of the frontage
Rear	Minimum 20 FT
Secondary frontage (Corner only)	Minimum 10 FT
UPPER STORY OR WALL PLANS GREATER THAN 15 FT IN HEIGHT	
Setback	
Primary frontage	Minimum 5 FT
Interior side (lots equal to or less than 50 feet in width)	Average n/a
Interior side (lots greater than 50 feet in width)	Minimum 10% of lot frontage
Rear	Average n/a
Secondary frontage (Corner only)	Minimum 20 FT
	Average n/a

90.45(a).4

Required Massing - For single family homes within the H30A and H30B districts, the following table shall be utilized for new multi-story structures or multi-story additions (additions greater than fifteen (15) feet in height) to existing single-story structures where the upper-story floor area is fifty (50%) percent to sixty four (64%) percent of first-story floor area. Where provided, both the minimum and average setbacks shall be utilized.

H30A and H30B		Percentage
UPPER STORY OR WALL PLANS GREATER THAN 15 FT IN HEIGHT		
<u>Maximum Lot Coverage</u>		40%
FIRST STORY (UP TO 15 FT IN HEIGHT)		Setback
Primary frontage		Minimum 20 FT
Interior side (lots equal to or less than 50 feet in width)		Minimum 5 FT
Interior side (lots over 50 feet in width)		Minimum 10% of the frontage
Rear		Minimum 20 FT
Secondary frontage (Corner only)		Minimum 10 FT
UPPER STORY OR WALL PLANS GREATER THAN 15 FT IN HEIGHT		Setback
Primary frontage		Minimum 5 FT
Interior side (lots equal to or less than 50 feet in width)	H30A - Wall length is equal to or less than 20% of the lot depth	Minimum 5 FT Average n/a
	H30A - Wall length is greater than 20% of the lot depth	Minimum 5 FT Average 7.5 FT
	H30B - Wall length is equal to or less than 25% of the lot depth	Minimum 5 FT Average n/a
	H30B - Wall length is greater than 25% of the lot depth	Minimum 5 FT Average 7.5 FT
Interior side (lots greater than 50 feet in width)	H30A - Wall length is equal to or less than 20% of the lot depth	Minimum 10% of lot frontage Average n/a
	H30A - Wall length is greater than 20% of the lot depth	Minimum 10% of lot frontage Average 15% of the frontage
	H30B - Wall length is equal to or less than 25% of the lot depth	Minimum 10% of lot frontage

Ordinance No. 09-1514

		Average n/a
	H30B - Wall length is greater than 25% of the lot depth	Minimum 10% of lot frontage
		Average 15% of the frontage
Rear		Minimum 20 FT
		Average n/a
Secondary frontage (Corner only)		Minimum 10 FT
		Average 15% of lot frontage

90.45(a).5 Required Massing - For single family homes within the H30A and H30B districts, the following table shall be utilized for new multi-story structures or multi-story additions (additions greater than fifteen (15) feet in height) to existing single-story structures where the upper-story floor area is sixty five (65%) percent to eighty (80%) percent of first-story floor area. Where required, both the minimum and average setbacks shall be utilized.

	H30A and H30B Upper story floor area is greater than 65% of first story floor area	Percentage
Maximum Lot Coverage		40%
	First story (up to as high as 15 ft)	Setback
Primary frontage		Minimum 20 FT
Interior side (lots equal to or less than 50 feet in width)		Minimum 5 FT
Interior side (lots over 50 feet in width)		Minimum 10% of the frontage
Rear		Minimum 20 FT
Secondary frontage (Corner only)		Minimum 10 FT
	Upper story (or wall planes greater in height than 15 ft)	Setback
Primary frontage		Minimum 5 FT
Interior side (lots equal to or less than 50 feet in width)	H30A - Wall length is equal to or less than 20% of the lot depth	Minimum 5 FT
	H30A - Wall length is greater than 20% of the lot depth	Average 10 FT
Interior side (lots greater than 50 feet in width)	H30B - Wall length is equal to or less than 25% of the lot depth	Minimum 5 FT
	H30B - Wall length is greater than 25% of the lot depth	Average 10 FT
Rear	H30A - Wall length is equal to or less than 20% of the lot depth	Minimum 10% of lot frontage
	H30A - Wall length is greater than 20% of the lot depth	Minimum 10% of lot frontage
	H30B - Wall length is equal to or less than 25% of the lot depth	Average 20% of the frontage
	H30B - Wall length is greater than 25% of the lot depth	Minimum 10% of lot frontage
Secondary frontage (Corner only)		Minimum 20 FT
		Average 20% of the frontage

Sec. 90.45(b)

Setbacks

90.45(b).1

Required Setbacks - Tables: The following tables shall be utilized for structures in the H30C, H40, H120, and SD-B40 zoning districts

	Minimum Setback (ft)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

	Minimum Setback (ft)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

	Minimum Setback (ft)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

	Minimum Setback (ft)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

	Minimum Setback (ft)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

Minimum Setback (feet)	Minimum Setback (feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

Minimum Setback (feet)	Minimum Setback (feet)
Primary frontage	40 FT
Interior side	10 FT
Rear	30 FT
Secondary frontage (Corner only)	20 FT

Minimum Setback (feet)	Minimum Setback (feet)
Primary frontage	0 FT
Interior side	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

Sec. 90.48 Modification of side and rear yard regulations

90.48.6 New balconies or decks located more than five (5) feet above grade on new or existing single family homes shall not encroach into any setbacks.

Sec. 90.50(a) Architecture

90.50(a).1 The architectural design of proposed main buildings shall create a unique elevation compared to the main buildings of the adjacent two (2) homes on each side of the subject property on the same side of street. If the adjacent lot is vacant then the next adjacent lot shall be utilized. A unique elevation shall be created through the modulation of at least three (3) of the following architectural features:

- (a) Length, width and massing of the structure;
- (b) Number of stories;
- (c) Façade materials;
- (d) Porches and other similar articulation of the front facade;
- (e) Number and location of doors and windows; and
- (f) Roof style and pitch.

90.50(a).2 All elevations for new structures and ~~multi-story~~ additions shall provide for a minimum of 10% wall openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades.

90.50(a).3 All elevations for ~~single-story~~ additions to existing structures shall result in a zero (0%) percent net loss of wall openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades.

90.50(a).4 Roof materials are limited as follows:

Ordinance No. 09-1514

- (a) Clay Tile; or
- (b) White concrete tile; or
- (c) Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is granted approval by the Design Review Board;
- (d) Architecturally embellished metal if granted approval by the Design Review Board; or
- (e) Other Florida Building Code approved roof material(s) if granted approval by the Design Review Board.

90.50(a).5 Garage Facades. Attached garages located at the front of a single family home shall not exceed fifty percent (50%) of the overall length of the facade. If a garage is provided to accommodate two (2) cars, the garage entrances must have an exterior expression of two (2) separate entrances, each a maximum of ten (10') feet wide, and separated by a minimum eighteen (18") inches wide vertical element consistent with the facade.

90.50(a).6 Converting single-family attached garages. When an attached garage is converted for any other use, the garage door or doors may be replaced by a solid exterior wall and access to the former garage area must be provided from the main premises, in addition to any other permitted access. At least one (1) window shall be provided. If the garage entrance is located at the front or primary corner of the property, landscaping shall be provided along the base of the new exterior wall.

It is intended hereby to prohibit and prevent any violation of the single-family classification and to minimize the burden upon the administrative forces of the Town in policing and enforcing the provisions hereof. Changes to the appearance of the residence shall not constitute a change prohibited by the "Home Office" provision of this Code. If the exterior door of the garage conversion is no longer level with grade, stairs may be installed and the exterior door must be accordingly corrected to comply with the Florida Building Code. The stairs shall be permitted to encroach no more than twenty-four (24) inches into the side or rear setbacks.

90.50(a).7 Notwithstanding the foregoing, some of the architecture provisions in this section, while specific to Zoning Districts H30A and H30B, may also be applicable to single family homes in other Zoning Districts.

Sec. 90.50(b) Roof Deck Provisions.

90.50(b).1 Roof decks shall be permitted in all zoning districts.

90.50(b).2 For properties designated H30A and H30B, roof decks area limited as follows:

1. Exterior and interior stairs shall be permitted
2. No extension of stairs shall be permitted over the thirty (30) feet height limitation of the building.
3. Roof decks shall provide ten (10) foot setbacks on the sides and rear of the building.

90.50(b).2 For properties designated H30C, H40, H120, SD-B40 and MU, roof decks are limited to:

1. A maximum of seventy (70) percent of the aggregate roof area;

2. Shall not exceed the maximum roof height required by any abutting property's zoning designation;
 3. Shall be setback from the roofline at least ten (10) feet on all sides to provide for minimal visibility of roof decks from any public way, except on properties designated SD-B40; and
- 90.50(b).3 All roof decks added to existing buildings shall be inspected by a Registered Structural Engineer and Registered Architect, who shall address in writing to the Building Official the following issues:
1. How will the existing roofing system be protected or replaced to allow for the new use;
 2. Structural support strategies for any increase in live loads and dead loads;
 3. Compliance with applicable ADA requirements;
 4. Location of plumbing and mechanical vent stacks, fans and other appurtenances;
 5. Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;
 6. Added occupancy and servicing restroom facilities; and
 7. All other issues applicable in the Florida Building Code.
- 90.50(b).4 All work performed on an existing roof deck to allow for occupancy shall be considered a change of use and shall require both a Permit and a Certificate of Occupancy.
- Sec. 90.61 Paving in front and rear yards in H30 and H40 Districts
- 90.61.1 Front setbacks in the H30A, H30B, H30C or H40 districts shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater. Pavers and pervious hard materials, including pervious concrete, shall not be utilized for the calculation of pervious area.
- a. Not less than thirty (30) percent of the front yard shall be landscaped.
 - b. Not less than twenty (20) percent of the rear yard shall be landscaped.
 - c. No front yard shall be accessible by vehicles from a public street by more than two (2) curb cuts.
 - d. No curb cut shall be located within five (5) feet of a side lot line.
 - e. Where there is a single curb cut for any one property, the curb cut shall not be more than eighteen (18) feet in width.
 - f. Where there are two curb cuts for any one property, the curb cuts shall not be more than twelve (12) feet in width, and there shall be at least twelve (12) feet between curb cuts. Where a driveway is installed with two (2) curb cuts, a landscaped island containing at least sixty (60) square feet shall be provided between the curb cuts in the front yard area, extending from the front property line to the paved area.
 - g. On corner lots where vehicular access and off-street parking are provided in a side yard, these same regulations shall apply also to the side yard. Such side yards shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater and not less than thirty (30) percent of the side yard shall be landscaped.

h. Driveway materials are limited to the following

1. Pavers
2. Color and texture treated concrete, including stamped concrete
3. Painted concrete shall not be permitted.
4. Asphalt shall not be permitted.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective on passage on Second Reading or as otherwise provided by Florida law.

PASSED and ADOPTED on first reading this 10 day of Feb., 2009.

PASSED and ADOPTED on second reading this 14 day of April, 2009.

Charles W. Burkett, Mayor

Ordinance No. 09-1514

Attest:

Ruma Castro

Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Lynn M. Dannhelsser
Lynn M. Dannhelsser, Town Attorney

On Second Reading Moved by: *Vice Mayor Imberman*

On Second Reading Seconded by: *Commissioner Calderon*

Vote:

Mayor Burkett	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Imberman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Calderon	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Levine	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Weinberg	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Ordinance No. *09-1514*

ORDINANCE NO. 09- 1575

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE BY CREATING A NEW SECTION 90-36-1 IN ARTICLE II, DIVISION III TO PROVIDE FOR APPLICATION FOR A TEMPORARY USE OR STRUCTURE PERMIT NOT OTHERWISE TREATED AS A PERMITTED USE OR CONDITIONAL USE IN A PARTICULAR ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, The Town of Surfside ("Town") proposes to amend its Code of Ordinances to address the application process for a temporary use or structure permit not otherwise treated as a permitted use or conditional use in a particular zoning district; and

WHEREAS, The Town has determined that existing Florida Building Code regulations should be supplemented by this Town ordinance; and

WHEREAS, The Town Commission held its first public reading on February 10, 2009 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on February 26, 2009 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on March 10, 2009 and further finds the proposed change to the Code necessary and in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Ordinance No. 09-1575

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Section 36-1. Temporary Use or Structure Permit.

a. Permit required. A temporary use or structure which is not otherwise treated as a permitted use or conditional use in a particular zoning district and which is not otherwise prohibited shall be conducted or erected with a temporary use or structure permit in accordance with the terms of the Florida Building Code and/or the Florida Fire Prevention Code. This section shall not override, and shall not substitute for, any other section of the Town's Zoning Code which requires another type of permit, certificate, or approval.

b. Reviews and approval. An application for temporary use as defined by the Section 3103 of the Florida Building Code shall be submitted and reviewed and approval in for conformance with the procedures contained in Sections 107.4 and Section 3103 and such other Sections of the Florida Building Code as may be applicable.

1. Within the discretion of the Building Official, where the failure to timely remove a temporary use or structure could adversely affect the health, safety or welfare of the Town, and/or would create an economic hardship for the Town to remove, the property owner shall be required to post a bond or comparable instrument acceptable to the Town Manager such as a refundable deposit in amount sufficient, in the sole opinion of the Town Manager, to pay for the cost of demolition and removal of the structure or use from the site. Said instrument shall be from a surety company or financial institution acceptable to the Town Manager and shall be in a form approved by the Town Attorney.
2. The temporary use shall meet the Town's Zoning Code pertaining to the underlying zoning
3. Maximum time limit. A maximum time limit shall be established for all temporary uses based on the anticipated minimum amount of time needed to conduct the permitted activity; provided, however, that any temporary use that extends is contemplated to extend beyond (90) days for issue of permit shall be placed on the Town Commission Agenda for the Commission review and approval. Temporary uses and structures related to real estate development projects shall not be maintained longer than the time necessary to complete the construction of the project.

Proposed additions to existing town code text are indicated by underline; proposed deletions from existing town Code text are indicated by strikethrough

c. Revocation of permits. Any temporary use, which becomes a nuisance, violates the conditions of the permit, or is in violation of the Town Zoning Code shall be revoked by the Town Building Official. Any temporary use, which endangers the public health or safety, shall be revoked immediately by the Town Building Official.

Section 3. 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.

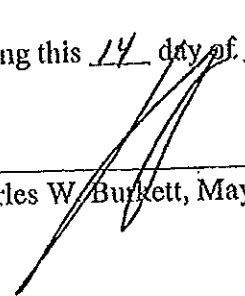
Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this 10th day of February, 2009.

PASSED and ADOPTED on second reading this 14 day of April, 2009.



Charles W. Burkett, Mayor

Ordinance No. 09-1575

Attest:

Debra Eastman
Debra Eastman, Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Lynn M. Dannheisser
Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: Commissioner Levine

On Second Reading Seconded by: Commissioner Calderon

Vote:

Mayor Burkett	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Imberman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Calderon	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Levine	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Weinberg	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Ordinance No. 09-1615

ORDINANCE NO. 09-1520

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING"; ARTICLE V "DESIGN STANDARDS"; SECTION 90-56 "FENCES, WALLS AND HEDGES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the "Commission") recognizes the need to regulate fences, walls and hedges for the health, safety and welfare of the Town; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of this unique community and continues to amend these regulations to address the placement of fences, walls and hedges as they may best suit the needs of the community; and

WHEREAS, the Planning and Zoning Board as the local planning agency for the Town held its hearing on the proposed amendments to the fence, walls and hedges regulations on December 18, 2008 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on March 10, 2009, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on April 14, 2009.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Code Amended. The Town Code is hereby amended by amending Section 90-56 "Fences, walls and hedges" included in Chapter 90 "Zoning," Article V "Design Standards" which shall read as follows:

Sec. 90.56
90.56.1

Fences, walls and hedges

An ornamental fence or wall not more than six (6) feet in height, as measured from grade ~~grown of road~~, may project into or enclose any ~~yard, except as otherwise provided herein~~ an interior side or rear yard only. Notwithstanding anything to the contrary elsewhere in the code, for purposes of this section, grade is defined as the point of the ground immediately below the location of the fence or wall.

90.56.32

An ornamental fence or wall may be placed within the front yard or primary corner yard if granted approval by the Design Review Board.

90.56.3

Ornamental fences or walls placed within a front yard or secondary frontage/corner yard are limited to function as spatial locators and shall not be substantial in appearance and shall adhere to height and opacity limitations as set forth in Table 90.56.4:

90.56.4

Front Yard and Corner Yard Ornamental Fences and Walls - Table

<u>Dimensions</u>	<u>Maximum Height (feet)</u>	<u>Maximum Opacity (percent)</u>
<u>Less than or equal to 50 ft in width</u>	<u>3 ½ FT</u>	<u>All wall and fence surfaces above two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent</u>
<u>Wider than 50 ft and less than 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 5 FT</u>	
<u>Wider than or equal to 100 ft</u>	<u>3 ½ FT + ½ FT per 10 feet of lot width exceeding 50 feet, maximum 6 FT</u>	
<u>Secondary frontage (Corner only)</u>	<u>Shall adhere to the height and opacity limitations for corresponding lot frontage</u>	

90.56.5

Modification of secondary frontage ornamental fence regulations.

1. An ornamental fence that has a maximum opacity of 100% and a maximum height of five (5) feet, as measured from grade, may project into or enclose up to fifty (50%) percent of the rear portion of the primary corner yard provided that the fence shall be placed at least ten (10) feet from the right of way line or the fence shall be aligned with the wall plane of the subject home.

2. Section 90.56.4 (Modification of secondary frontage ornamental fence regulations) shall not be applied to ornamental walls, which shall adhere to the height and opacity limitations for the corresponding lot frontage.

90.56.6

When being installed as a safety feature for a swimming pool in a front or primary corner yard, an ornamental fence or wall shall be permitted at a maximum of four (4) feet in height. The applicant shall demonstrate

¹ Proposed additions to existing town code text are indicated by underline; proposed deletions from existing town Code text are indicated by strikethrough.

evidence relative to this hardship.

- 90.56.27 The height of such ornamental fence or wall shall be measured from grade, ~~the elevation of the crown of the road upon the street serving the lot or building site. A berm or retaining wall shall not be created with the purpose of increasing the grade such that an ornamental wall or fence height exceeds the maximum height permitted by this Code.~~
- 90.56.4 ~~Ornamental walls and fences placed within the front yard or side corner yard shall be subject to the following:~~
- a. ~~The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or~~
 - b. ~~All wall surfaces above twenty-four (24) inches measured from grade shall maintain a maximum opacity of fifty (50) percent; or~~
 - c. ~~No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.~~
- 90.56.58 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.
- 90.56.69 Hedges shall be no more than four (4) feet in height in the front yard and side corner yards and ten (10) feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the Design Review Board, on a case-by-case basis.
- 90.56.710 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of Section 90-52 (Required Clearances) or fire codes, including concealment of fire hydrants.
- 90.56.811 No fence, wall or hedge may be placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than one hundred and fifteen (115) feet in width shall be permitted, provided that it is understood by the property owner that the Town does not waive its right to demand removal without notice as deemed necessary within the Town's discretion and the Town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.
- 90.56.912 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may be constructed with posts on the outside of the fence provided that the horizontal rails are at

least fifty (50) percent covered by boards on the side facing away from the property on which the fence is constructed.

90.56.4013 It shall be a violation under this Article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this Section and as determined by the Town Manager or designee.

90.56.4414 The following fencing material shall be prohibited:

- a. Chain-link and other wire fencing
- b. Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

90.56.4215 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

90.56.4316 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property line or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the Town Manager or designee.

90.56.4417 Temporary construction fences shall be permitted. The maximum height of such fence shall be six (6) feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

) Section 4: Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 5. Effective Date. This ordinance shall become effective in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the 10 day of March, 2009.

PASSED and ADOPTED on Second Reading this 14 day of April, 2009.

Charles W. Burkett, Mayor

Attest:

Rebecca Carter

Town Clerk

) APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Lynn M. Dannheisser

Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: Commissioner Levine

On Second Reading Seconded by: Commissioner Calderon

Vote:

Mayor Burkett	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Imberman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Calderon	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Levine	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Weinberg	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Ordinance No. 09-1520

ORDINANCE NO. 09- 1523

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90-15 (b) ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSED ARCHITECTS TO SERVE ON THE PLANNING AND ZONING OR DESIGN REVIEW BOARDS PROVIDED NO RESIDENT LICENSE ARCHITECT CAN BE IDENTIFIED AND IS WILLING TO SERVE AT THE TIME OF THE APPOINTMENT AND FURTHER PROVIDED THE ENTIRE COMMISSION RATIFIES SAID APPOINTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside adopted a new zoning code by Ordinance 149 adopted on May 13, 2008; and

WHEREAS, Section 90-15 (b) requires that all board members of the Planning and Zoning Board shall have been a resident for a minimum of one year except that a licensed architect shall have been a resident for a minimum of six (6) months; and

WHEREAS, it now appears this residency requirement as it relates to licensed architects is too stringent and in the event a resident possessing qualifications as a licensed architect is not available to serve on the Board, the Commission may need to select a non-resident who is willing to serve and therefore the Commission is willing to eliminate this requirement; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held public hearing on March 26, 2009 and recommended approval of the proposed

amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after due public notice, and having received input and participation by interested members of the public and staff, and having considered the Town of Surfside Planning & Zoning Board's recommendation, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan, finds the proposed change to the Code necessary and in the best interest of the community; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. The Code of Ordinances shall be amended as follows:

Sec. 90-15. Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

(b) *Minimum board member qualifications:* All board members must have been a town resident for a minimum period of one year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six months. The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design. ~~Notwithstanding this minimum number of required architects satisfying these qualifications, including residency requirements, the town commission at its discretion, may consider and appoint architectural members who have at least three years minimum experience as a licensed architect within the State of Florida. To the extent that no licensed architect (whether for service on the Planning and Zoning Board or service on the Design Review Board only as more specifically described in Section 90-18 hereinbelow) who is also a Town resident can be identified and is willing to serve at the time of appointment to either Board, then the Commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the Board of Commissioners.~~

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the 10th day of February, 2009.

PASSED and ADOPTED on Second Reading this 12 day of May, 2009.

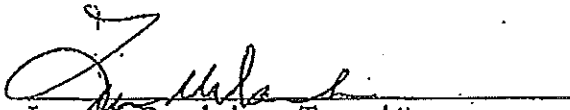
Charles W. Burkett, Mayor

Attest:

R. Lisa Eastman

Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: Vice Mayor Imberman

On Second Reading Seconded by: Commissioner Levine

Vote:

Mayor Burkett yes no

Vice Mayor Imberman yes no

Commissioner Calderon yes no

Commissioner Levine yes no

Commissioner Weinberg yes no

Ordinance No. 09-1523

ORDINANCE NO. 09-1523

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90-15 (b) ELIMINATING RESIDENCY REQUIREMENTS FOR LICENSED ARCHITECTS TO SERVE ON THE PLANNING AND ZONING OR DESIGN REVIEW BOARDS PROVIDED NO RESIDENT LICENSE ARCHITECT CAN BE IDENTIFIED AND IS WILLING TO SERVE AT THE TIME OF THE APPOINTMENT AND FURTHER PROVIDED THE ENTIRE COMMISSION RATIFIES SAID APPOINTMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside adopted a new zoning code by Ordinance 149 adopted on May 13, 2008; and

WHEREAS, Section 90-15 (b) requires that all board members of the Planning and Zoning Board shall have been a resident for a minimum of one year except that a licensed architect shall have been a resident for a minimum of six (6) months; and

WHEREAS, it now appears this residency requirement as it relates to licensed architects is too stringent and in the event a resident possessing qualifications as a licensed architect is not available to serve on the Board, the Commission may need to select a non-resident who is willing to serve and therefore the Commission is willing to eliminate this requirement; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held public hearing on March 26, 2009 and recommended approval of the proposed

amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after due public notice, and having received input and participation by interested members of the public and staff, and having considered the Town of Surfside Planning & Zoning Board's recommendation, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan, finds the proposed change to the Code necessary and in the best interest of the community; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. The Code of Ordinances shall be amended as follows:

Sec. 90-15. Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

(b) *Minimum board member qualifications:* All board members must have been a town resident for a minimum period of one year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six months. The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design. Notwithstanding this minimum number of required architects satisfying these qualifications, including residency requirements, the town commission at its discretion, may consider and appoint architectural members who have at least three years minimum experience as a licensed architect within the State of Florida. To the extent that no licensed architect (whether for service on the Planning and Zoning Board or service on the Design Review Board only as more specifically described in Section 90-18 hereinbelow) who is also a Town resident can be identified and is willing to serve at the time of appointment to either Board, then the Commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the Board of Commissioners.

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the 10th day of February, 2009.

PASSED and ADOPTED on Second Reading this 12 day of May, 2009.

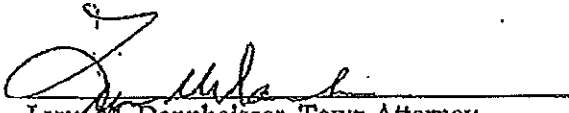
Charles W. Burkett, Mayor

Attest:

Rutha Eastman

Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:


Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: Vice Mayor Imberman

On Second Reading Seconded by: Commissioner Levine

Vote:

Mayor Burkett yes no

Vice Mayor Imberman yes no

Commissioner Calderon yes no

Commissioner Levine yes no

Commissioner Weinberg yes no

Ordinance No. 09-1523

ORDINANCE 2009- 1524

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN CODE BY AMENDING CHAPTER 90 "ZONING," ARTICLE II "ADMINISTRATION AND ENFORCEMENT," DIVISION 2 "PLANNING AND ZONING BOARD" BY AMENDING SECTIONS 90-17 AND 90-18 TO ADD A FUNCTION TO THE DESIGN REVIEW BOARD; PROVIDING FOR "SEVERABILITY"; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission, by Ordinance 2008-1498, amended and replaced the Town's Floodplain Management Standards to comply with FEMA regulations;

WHEREAS, in accordance with Article 6, Section A, a Variance and Appeals Board must be established to consider an appeal where it is alleged there has been an error in any requirement, decision, or determination by the Floodplain management Administrator in the enforcement or administration of said ordinance; and

WHEREAS, the Town Commission wishes to add this function to the power and duties of the Planning and Zoning Board;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Code Amended. Section 90-17 is amended to read as follows:

Sec 90.17 Powers and Duties.

1. Zoning Matters: The Planning and Zoning Board shall act as an advisory board to the Town Commission on zoning matters and design review matters. The Boards' powers and duties are as follows:
 - a. To perform its responsibilities as the Local Planning Agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - b. To review and make recommendations to the Town Manager and the Town Commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - c. To review and make recommendations to the Town Commission, on applications pertaining to site plans (if applicable) zoning changes, special use permits, conditional use variances vested rights and any other zoning applications;
 - d. To conduct such studies and investigations required under the Town Code and/or requested by the Town Commission;
 - e. The Planning and Zoning Board shall have such other duties pertaining to zoning matters as prescribed by law, this Section and the Town Code.
2. Design Review: The Planning and Zoning Board shall conduct a design review for all structures to be constructed and renovated within Town limits on the terms outlined below.
3. FEMA Review: The Planning and Zoning Board when constituted as a Design Review Board as set forth in Section 90-18 hereinbelow, shall act as the Variance and Appeals Board pursuant Chapter 42 "Floods" Division 6 Variance Procedures, Sections 42-111 through 42-117.

Sec 90.18 Design Review Board.

The Planning and Zoning Board, when performing its design review and FEMA Variance and Appeals Board functions shall serve be constituted as the Design Review Board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the Commission and two (2) additional Florida licensed architects, one (1) of which may be a Florida licensed landscape architect. Both of these architects shall be appointed by a majority of the Town Commission. Four (4) members present at the Planning and Zoning Board design review meetings shall constitute a quorum and at least one (1) of the four (4) members shall be a licensed architect. The Design Review process is set forth as follows:

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Surfside; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Conflict. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. This ordinance shall become effective upon adoption on second reading.

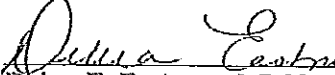
PASSED AND ADOPTED on first reading this 12 day of May, 2009.

PASSED AND ADOPTED on second reading this 17 day of June, 2009.



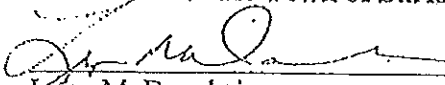
CHARLES W. BURKETT, Mayor

Attest:



Debra E. Eastman, MMC
Town Clerk

Approved as to form and legality for the use
and benefit of the Town of Surfside only:



Lynn M. Dannheisser
Town Attorney

On Second Reading Moved by: Vice Mayor Imberman

On Second Reading Seconded by: Commissioner Calderon

Vote:

Mayor Burkett	yes	<input checked="" type="checkbox"/>	no	_____
Vice Mayor Imberman	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Calderon	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	_____
Commissioner Weinberg	yes	<input checked="" type="checkbox"/>	no	_____

ORDINANCE NO. 09 - 1526

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTIONS 90.47 REQUIRING 5 FOOT SETBACKS FROM REAR AND SIDE YARDS TO ENSURE AND TO PROTECT TOWN RESIDENTS FROM ADDITIONAL NOISE; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR REPEAL OF ALL CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside adopted a new zoning code by Ordinance No. 08-1491 adopted May 13, 2008; and

WHEREAS, the Town Commission (the "Commission") recognizes the need to ensure and to protect the residents of the Town from additional noise; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of the this unique community and continues to amend these regulations as they may best suit the needs of the community; for the health, safety and welfare of the Town including identification of those instances where clearance requirements may be waived ; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, has held public hearing on April 30, 2009 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, after due public notice, and having received input and participation by interested members of the public and staff, and having considered the Town of

Surfside Planning & Zoning Board's recommendation, the Town Commission found the proposed Code changes to be consistent with the Comprehensive Plan, finds the proposed change to the Code necessary and in the best interest of the community; and

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Amendments to the Code of Ordinances. The Code of Ordinances shall be amended as follows:

Sec. 90.47 Yards generally, allowable projections

- 90.47.1 Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features may project not more than twenty-four (24) inches into any required yard.
- 90.47.2 Moveable awnings may be placed over doors or windows and may project not more than three (3) feet into any required yard.
- 90.47.3 In properties designated H30A or H30B, air conditioning equipment, pool pump or other mechanical equipment may be located in a required rear setback, provided such equipment is at least fifteen (15) feet from any other single-family or two-family residence, shall maintain at least a five (5) foot setback from the rear and side yards and is not visible from any street or waterway.

Section 3. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

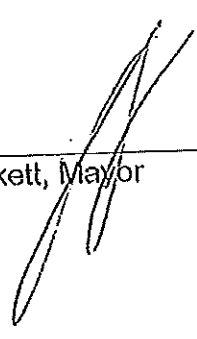
Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the 12 day of May, 2009.

PASSED and ADOPTED on Second Reading this 9 day of June, 2009.



Charles W. Burkett, Mayor

Attest:

Debra E. Eastman
Debra E. Eastman, MMC
Town Clerk

Approved as to form and legality for the use
and benefit of the Town of Surfside only:

Lynn M. Dannheisser
Lynn M. Dannheisser
Town Attorney

On Second Reading Moved by: Commissioner Levine

On Second Reading Seconded by: Vice Mayor Imberman

Vote:

Mayor Burkett	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Vice Mayor Imberman	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Calderon	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Levine	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>
Commissioner Weinberg	yes	<input checked="" type="checkbox"/>	no	<input type="checkbox"/>

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
1. 1491	5-13-08	90-1—90-19, 90-36—90-41, 90-51—90-57, 90-71—90-78, 90-91—90-94, 90-100—90-123, 90-145—90-155, 90-176—90-196, 90-206—90-212, 90-226—90-230, 90-241—90-246, 90-250, 90-256—90-258 90-1—90-99	<i>Zoning Code Rewritten</i>	
1492	5-27-08	2-182(b) 2-176(a)(3)		
1494	7-8-08	74-45		
1498	9-9-08	42-26—42-29, 42-41, 42-56—42-64, 42-76,42-77, 42-91—42-95, 42-111—42-117		
1499	10-14-08	4-1—4-9		
1500	10-14-08	66-35		
1501	10-14-08	66-36(d)		
1502	10-14-08	74-27		

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

ORD. No.	ADOPTION DATE	CODE SECTIONS AFFECTED	SUMMARY	NOTES
1503	10-14-08	78-56		
2.	11-10-08	90-41(c), 90-43 90-45(a) 90-48(a) 90-49	<i>Community Facilities Zoning District</i> created and regulations (uses, height, setbacks, etc.) established	
3.	1-13-09	90-100	<i>RLUIPA</i> claims process established to avoid potential violations for federal act	
1511	1-13-09	2-201—2-209		
1512	1-13-09	42-41		
1513	4-14-09	10-32		
1513A	2-10-09	74-26(b)		
4.	4-14-09	90-2,90-19(h)(5), 90-41(d) 90-45,90-48, 90-50	<i>McMansions</i> regulated through changes to design review guidelines and changes to massing, lot cover, setbacks, balconies, pervious area, pavers, and driveways	
5.	4-14-09	90-36.1	<i>Temporary Use or Structure permit</i> process and criteria created	
1516	4-14-09	2-180(d)		
1517	4-14-09	2-201—2-209		
1518	4-14-09	66-35		
1519	4-14-09	2-27		
6.	4-14-09	90-56	<i>Fence and hedge</i> regulations amended to set base for measuring height at grade (rather than crown of road), to establish sliding scale for heights based on lot width, to set opacity requirements, to regulate ornamental fences or walls, allowing greater flexibility for side lots	

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
			(i.e., 5 feet rather than 3/3.5 feet, greater opacity on the side lot, etc.)	
1521	4-14-09	14-55		
1522	5-12-09	14-29		
7.	5-12-09	90-15(b)	<i>Planning and Zoning Board residency</i> requirement eliminated if no resident architect can be identified	
8.	6-9-09	90-17,90-18	<i>FEMA floodplain review</i> and variances added to Planning and Zoning Board's powers	
9.	6-9-09	90-47(c)	<i>AC, Pool Pump and Other mechanical</i> equipment must be setback at least five feet from side and rear yards	
1527	7-15-09	14-51—14-53		
10.	7-15-09	90-53	<i>Portable storage units</i> may be kept longer (30 instead of 14 consecutive days); requiring additional contact information as part of permit application	
11.	7-15-09	90-2,90-56	<i>Ornamental walls</i> defined and height and opacity regulations revised	
1530	8-11-09	1-8 15-17—15-19		
1531	8-11-09	42-57		
12.	9-8-09	90-65	<i>Boat storage</i> prohibited in interior side or rear yards, or in ROW; regulating parking in front of property; requiring registration;	
1533	9-8-09	2-26		
1534	9-8-09	14-52		
1535	9-8-09	2-28		

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
1536	10-13-09	78-27		
1537	10-13-09	78-56(a)		
1538	10-13-09	2-1		
13.	10-13-09	90-48.5	<i>Side setbacks increased for H120 buildings over 30 feet in height</i>	
1540	10-13-09	2-28		
1541	11-10-09	14-31		
14.	12-8-09	90-2,90-77 90-78,90-82	<i>Parking regulations</i> amended to allow tandem parking in hotels, requiring more parking when uses enlarged or changed; specifying parking requirements for accessory meeting/banquet space and accessory restaurants; amending design standards to reduce parking stall length; specifying minimum area for tandem parking	
1543	12-8-09	3-6(f)		
15.	2-12-10	90-2,9-58	<i>Carport canopies</i> defined, allowed in the secondary frontage, and regulated to limit height and require setbacks,	
1547	2-12-10	14-51,14-52, 14-56		
1548	2-9-10	2-261—2-270		
16.	3-9-10	90-56—90-56.1	<i>Chain-link and wire fencing</i> allowed only as temporary construction fencing subject to detailed regulations; prohibiting chain-link (in other applications); prohibiting barbed wire, and canvas fences; establishing general regulations for all construction fencing	

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

	<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
17.	1550	3-9-10	90-77	<i>Parking requirements do not apply to municipal functions / lots</i>	
18.	1551	4-3-10	90-2,90-41	<i>Therapeutic massage permitted as an accessory to beauty/personal service/fitness salons; requiring that they not be visible from the ROW</i>	
19.	1552	5-11-10	90-35	<i>Requiring public notice for site plan applications, land use amendments, and rezoning; and providing that applicant shall pay for cost of notice</i>	
	1553	6-8-10	42-92		
20.	1554	6-8-10	90-91,90-93	<i>SD-B40 district exempt from landscape code</i>	
21.	1556	7-13-10	90-77	<i>SD-B40 district parking requirements established; allowing parking to be satisfied through off-site parking, shared parking, trust fund payments and establishing other regulations</i>	
	1557	8-10-10	74-71—74-79		
22.	1558	8-10-10	90-1—90-100 90-1—90-98	Correcting notice issue in 2008 zoning code rewrite	
23.	1559	9-14-10	90-15	<i>Planning and Zoning Board membership requirements amended to provide that one members must be a contractor, certified planner, or landscape architect.</i>	
	1560	9-14-10	78-26,78-27, 78-51,78-52 78-55 78-56,78-57		

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
24.	10-12-10	90-41(c)	<i>Parking allowed as a use</i> when subordinate to a main use in all districts	
25.	11-9-10	90-41(e), 90-77(e)	<i>Town surface lots</i> permitted in every district except H30A and H30B; exempting the same from design standards and landscape requirements	
26.	12-14-10	90-81	<i>Vehicular queuing, access to FDOT roads, and onsite circulation</i> design standards established	
		74-1—74-3		
27.	1-18-11	90-41	Psychic reading and consultation use permitted	
		2-152		
28.	2-8-11	14-32 90-61	<i>Curb cut regulations</i> removed from Chapter 14 (public works) to Chapter 90 (zoning); detailed regulations including number, spacing, and width standards with greater allowances for larger sites	If repealed, we need to be mindful to also modify Chapter 14 to reinstitute curb cut requirements there.
29.	3-8-11	90-65	<i>Boat storage regulations</i> amended to, among other things, allow storage in side, rear and front yards subject to conditions	

**COMPARATIVE TABLE OF ZONING ORDINANCES ADOPTED
BETWEEN 2004 AND 2008 ZONING CODE REWRITE**

Zoning ordinances are highlighted in green. Ordinances in yellow impact zoning code and other provisions.

<u>ORD. No.</u>	<u>ADOPTION DATE</u>	<u>CODE SECTIONS AFFECTED</u>	<u>SUMMARY</u>	<u>NOTES</u>
30. 1572	4-12-11	90-2,90-20, 90-23,90-41, 90-45,90-45.1 90-47, 90-49.1—90-49.4, 90-51,90-62, 90-67.1,90-67.2, 90-73,90-87	<i>Aggregation of lots defined; aggregated lots in H30C, H40 and H120 districts to have 85% density; <u>Development impact committee (DIC) established; Conditional use standards repealed and replaced; structured parking, institutional uses, and pump stations, hotel swimming pools, and outdoor dining facilities</u> designated as conditional uses in various districts and establishing regulations for each; <u>setback and height regulations</u> revised; establishing design standards regulating material and finishing; establishing <u>criteria/regulations for outdoor lighting, service and mechanical equipment, undergrounding of utilities; and electronic signage</u></i>	This ordinance covers a lot of ground; it merits careful review.
31. 1573	5-10-11	90-41.5	<i>Short term rentals regulated</i>	
1574	6-14-11	70-106—70-111 70-106—70-127		
1575	6-14-11	11-1		
1576	7-12-11	35-1—35-4		
1578	7-12-11	14-52		
1579	7-12-11	14-57		
1580	7-12-11	2-171 2-174		
1581	9-13-11	34-78—34-80 54-2		

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1582	10-11-11	42-26,42-41, 42-57,42-77, 42-92,42-95, 42-114		
32.	1-17-12	90-56.1	Construction fencing may be approved by manager not just the commission.	
33.	1-17-12	14-52,90-47, 90-49.2 Ch.90,App.	<u>Awning regulations</u> amended to established new design standards	This ordinance impacts Chapter 14 too.
34.	1-17-12	90-77	<u>SD-B40 off-street parking requirements</u> clarified; regulations regarding tandem, off-site and shared parking clarified	
1587	5-8-12	18-80,18-81 18-82—18-93,App.A		
1588	6-12-12	2-176(a)(1)b.		
35.	8-15-12	90-56.3,90-56.4	Fence and wall regulations amended to allow greater height (4'/4.5' vs 3'/3.5')	
36.	8-15-12	90-77(f),(g)	Mechanical parking lifts authorized, regulated	
1592	10-9-12	42-41,42-76, 42-77,42-91, 42-92,42-95		
37.	10-9-12	90-56 90-56.1	<u>Construction fencing strictly required</u> for all sites unless waived by building official; standards revised	
1594	11-13-12	66-35(a)(5)		
1595	12-11-12	2-176(a)(1)d.		

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	1596	12-11-12	42-41,42-76, 42-77,42-91, 42-92,42-95		
38.	1597	1-15-13	90-51	<u>Maximum building frontage (270')</u> established	
39.	1598	1-15-13	90-15—90-20, 90-23,90-70	<u>Design review board dissolved</u> ; powers transferred to Planning and Zoning Board; membership requirements of Planning & Zoning Board revised	
	1599	1-15-13	22-135(2)		
	1600	2-12-13	90-41.1(c)(2)c.	<u>Short term rental violation</u> may be noticed by posting	
	1601	4-9-13	90-41	<u>Outdoor dining in SD-B40</u> now permitted by-right (rather than as a conditional use)	
	1602	7-16-13	74-72 74-76,74-77		
	1603	8-13-13	2-193		
40.	1604	8-13-13	90-19.7(7)	<u>Trellises</u> exempt from Planning Board Review but must comply with design standards	
41.	1605	8-13-13	90-50.1(4)d	<u>Metal roofs</u> to no longer require Planning & Zoning Board review	
42.	1606	8-13-13	90-58	<u>Carpport canopy</u> width limited to 20 feet	
43.	1607	8-13-13	90-60	<u>Construction within west 20 feet from ocean bulkhead</u> line prohibited; properties east of Collins avenue must <u>provide access easement</u> to Town granting perpetual use of the hardpack to the public	
44.	1608	10-8-13	90-41	<u>Veterinary offices</u> permitted as a conditional use	

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45.	1610	12-10-13	90-56	<u>Construction</u> fences must be clad as approved by Manager	
46.	1611	2-11-14	90-41	<u>Sale of live animals</u> prohibited	
	1612	2-11-14	2-291		
47.	1614	2-11-14	90-50	<u>Two car garages</u> may architecturally read as a single door (previously required to read as two doors)	
48.	1615	2-11-14	90-45(b)	<u>Side setbacks in H120</u> amended to 10% of lot width but no less than 10 feet	
	1616	3-11-14	54-78		
49.	1617	3-11-14	90-2,90-41, 90-73(b)(3)f., 90-77(h)	<u>Electric vehicles</u> parking and charging stations regulated	
50.	1618	3-11-14	90-15—90-20, 90-23,90-70	Revising <u>Planning & Zoning Board meeting and membership requirements</u>	
	1619	5-13-14	66-7		
51.	1620	6-10-14	90-41.1,90-49.2, 90-56	<u>Setting code enforcement fines</u> for violations of short term rental, awning, and fence and wall regulations	
	1621	6-10-14	1-8(c),10-27, 14-31(d),14-51(f), 14-55(d),15-6, 15-11,15-18(d), 18-85,18-88(g), 34-71(b),34-80, 42-64,70-32, 70-36		

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52. 1622	6-10-14	90-57	<u>Marine dock lengths</u> may extend further into the Biscayne Bay if supported by DERM in order to avoid impacts to marine resources	
53. 1623	7-8-14	90.2,90.19.7 90-50.3	<u>Solar panels permitted</u> and regulated	
54. 1624	8-12-14	90-68—90-76 90-68—90-76.2	<u>Sign code</u> repealed and replaced	
55. 1625	8-12-14	90-77	<u>Parking trust fees</u> to be spent on defined purposes only; providing for additional regulations	
56. 1625A	9-9-14	90-51	In H120, <u>maximum building length (270 feet)</u> limited to height of 30 feet; providing additional design requirements	
57. 1626	11-18-14	90-52 90-92	<u>Corner and driveway clearances</u> increased and list of prohibited obstructions expanded; prior code provision regarding “sight triangles” stricken	
58. 1627	12-9-14	90-51.1(2)	<u>10% fenestration</u> required per façade per story	
1628	12-9-14	2-235		
59. 1629	2-10-15	90-50	<u>10% fenestration</u> required per façade per story	Unclear why this ordinance was necessary after ordinance 15-1627

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1630	3-10-15	34-9 34-78,34-80		
60.	3-10-15	34-2—34-8 14-28(d) 90-5(12)	<i>Beach sand quality</i> standards adopted	This ordinance amended multiple chapters, not just the zoning code.
1632	5-12-15	54-77		
1633	5-12-15	66-35		
1634	5-12-15	26-13		
1635	5-12-15	26-4		
61.	6-9-15	90-36	<i>Practical difficulty</i> variance established	
62.	8-11-15	90-50.1(8)	<i>Paint colors in H30A and H30B</i> limited to four lightest colors on swatch	
63.	10-13-15	90-50.1(2)	<i>10% fenestration requirement</i> applied for each plane of each façade	
1639	11-10-15	34-10		
64.	12-8-15	90-43	<i>Maximum number of stories</i> adopted (prior code specified only a maximum height in terms of feet)	
65.	1-12-16	90-2 90-44 90-45(b) 90-50 90-51 90-61	<i>Harding and Collins Corridor</i> regulations amended to modify setbacks, height, building lengths, driveways, paving, forecourts and other elements	

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1643	1-12-16	70-126(6)		
66.	1-12-16	90-51	<u>Continuous wall length in H120 district</u> capped to 150 feet	
67.	2-9-16	90-48	<u>Balconies and terraces</u> excluded from side and rear <u>setback</u> regulations	
1646	2-9-16	14-55(a)(6)		
1647	2-9-16	3-1.1		
68.	6-14-16	90-15(1)a. 90-18	Planning and Zoning board composition amended to require: (1) General contractor; (2) PE, (3) Planner, (4) Landscape architect; (5) Interior designer; (6) attorney; (7) real estate developer	
1649	7-12-16	35-5		
69.	8-10-16	90-19.7 90-54.7	<u>Sheds</u> exempt from planning and zoning board review but must meet design standards; sheds to be screen from view from ROW	
1651	9-13-16	14-32		
1652	10-13-16	2-171 2-176 2-180(a)		
70.	10-13-16	90-69	<u>Entrance feature</u> added to sign code regulations	
1654	12-13-16	2-201—2-209 2-201—2-209		
71.	12-13-16	90-2 90-33	<u>Architecturally significant buildings</u> defined and granted additional flexibility to allow alteration in the H120 district; providing design guidelines for such alteration	
1656	12-13-16	14-29		

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1657	12-13-16	54-78 54-79 54-80 54-81		
1658	12-13-16	70-41 86-26 86-30—86-33		
17-1660	2-16-17	2-227.1		
72.	5- 9-17	14-28(a) 14-28(e) 90-19.6	<i>Certain demolition permits</i> to receive additional board review, require notice	This ordinance amends multiple chapters.
17-1662	6-13-17	86-26 86-31 86-33		
17-1663	10-10-17	2-201—2-209 2-201—2-209		
17-1664	10-10-17	78-27 78-56(a) 78-57		
73.	11-14-17	90-37 90-60	<i>Dune cross overs</i> regulated and providing for exceptions	
74.	12-13-17	90-2 90-41(c) 90-41(d)(30)	<i>Marijuana dispensaries</i> defined, permitted in SB-B40 subject to distance requirements	

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17-1667	12-13-17	2-229(c) 2-229(d) 2-230 2-231(d) 2-235(1)b.		
75.	1-9-18	90-69 90-73(b)(3)g.	<u>Ground affixed letter or number signs</u> authorized/regulated	
18-1669	2-13-18	54-2		
18-1670	2-13-18	2-171		
18-1672	2-13-18	3-6(c) 3-13(7)e.		
76.	2-13-18	90-2	<u>Pitched and flat roofs distinguished, granted</u> different means of height measurement	
18-1674	2-13-18	42-92(1)		
77.	2-13-18	90-69 90-74	<u>Freeboard</u> modifications to height regulations	
18-1676	3-13-18	Ch.34,Art.I, Div.3(tit.) 34-11		
18-1677	3-13-18	14-29		
78.	3-13-18	90-61(8)	<u>Driveways in H30 and H40</u> may not extend beyond front plan of home unless accessing garage or approved by DRB	
18-1679	3-13-18	2-235(2)a.iv.		

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79.	18-1680 4-10-18	14-51(d)–(g) 90-52(f) 90-52(f) 90-52(g) 90-52(h) 90-87(3) 90-88(2) 90-89.4(6)	<i>Mulch</i> prohibited in ROW	This ordinance impacts multiple chapters.
18-1681	4-10-18	86-1		
80.	18-1682 5-8-18	90-51	<i>Continuous walls in H120</i> capped at 150 feet, forecourt spacing regulations stricken; <i>Continuous walls in H30C</i> capped at 90 feet in length subject to detailed regulations with heightened regulations for Harding Avenue	
81.	18-1683 5-8-18	90-35 90-36(11)	<i>Planning and Zoning Board procedures</i> revised	
18-1684	5-22-18	3-17		
18-1685	06-12-18	Comp Plan	Adopting EAR Amendments	Note Codified, See Comp Plan
82.	18-1686 7-10-18	90-77(b)(4) 90-77(b)(4),(5) 90-77(b)(5),(6)	<i>Parking exemption program</i> to address vacancy and economic revitalization in SD-B40	
18-1688	5-8-18	34-81—34-86		

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83.	18-1689 9-12-18	90-15—90-20 90-23.1(7) 90-33 90-49.2.b.1,b.5 90-50(5),(9) 90-54 90-56	<u>Abolishing DRB</u> and modifying Planning and Zoning Board powers, procedures, membership, etc.	
	18-1690	12-11-18 34-11		
84.	18-1691 12-11-18	90-56	<u>Fence and hedge regulations</u> amended to increase permitted opacity and height (to 6 feet); providing for setbacks and additional regulations	
	18-1692	12-11-18 2-235(1)b.		
85.	18-1693 12-11-18	Ch.90,Art.IX(tit.) 90-100	<u>Reasonable accommodation</u> procedures established	
86.	18-1694 12-11-18	90-45(a)	<u>Setbacks requirements in H30A and H30B</u> districts revised, generally increased	
	19-1695	3-12-19 2-237		
	19-1696	6-11-19 90-37	“ <u>Florida Friendly</u> ” landscape requirements added to landscape code	
	19-1697	7-9-19 42-26—42-29, 42-41, 42-56—42-64, 42-76,42-77, 42-91,42-92, 42-95, 42-111—42-117 42-1—42-17		

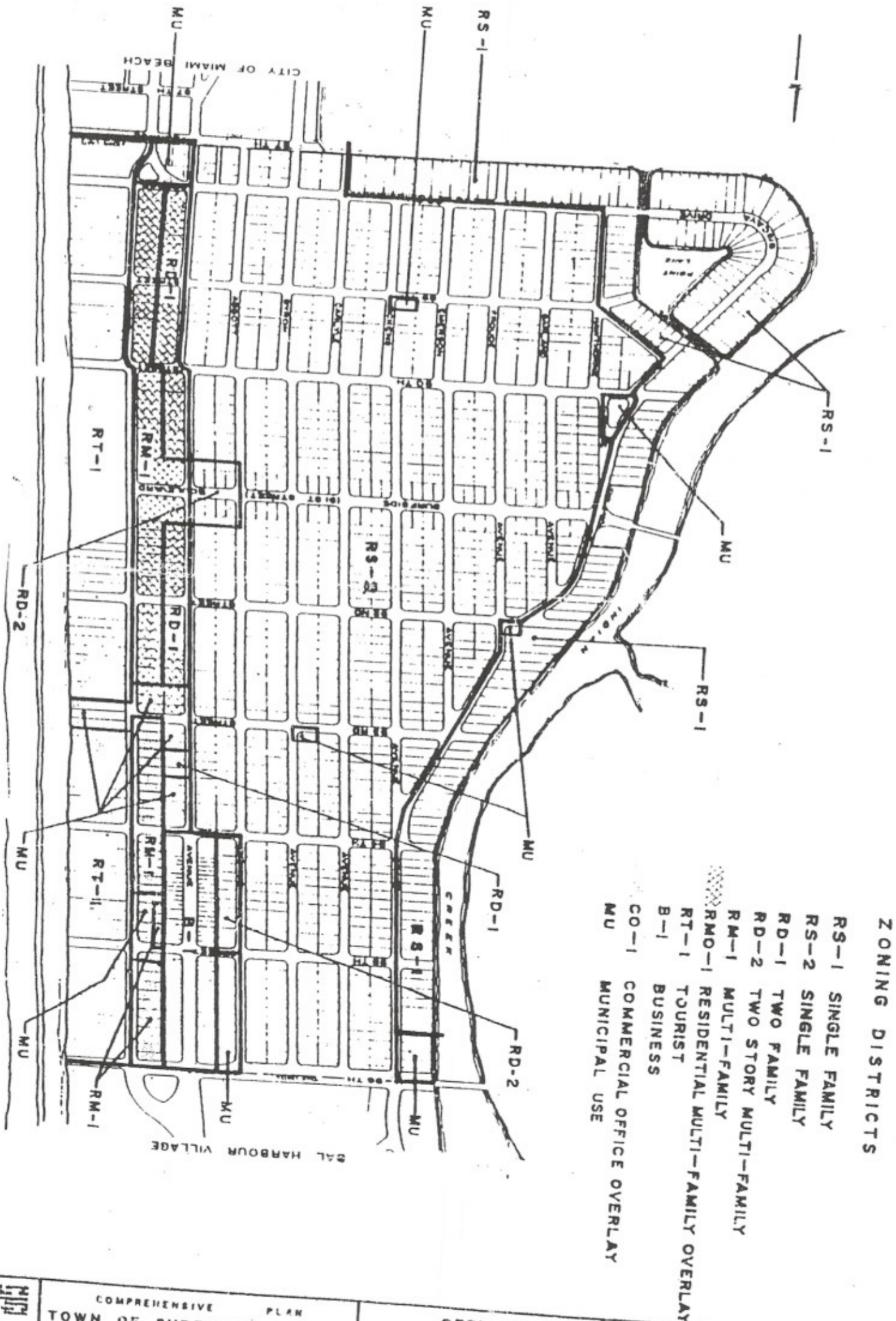
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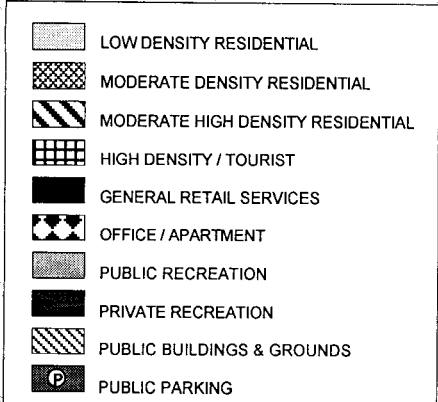
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19-1698	7-9-19	34-11		
19-1699	8-13-19	14-58		
19-1700	9-10-19	2-28		
19-1701	9-10-19	34-11		
87.	9-10-19	90-77(b)(4)	<i>Extending Parking exemption program to address vacancy and economic revitalization in SD-B40</i>	
19-1703	10-10-19	2- 235(1)b.,(2)a.i.1.,(2)a.iii.1. 2-235(2)c.		
19-1704	10-10-19	26-14		
19-1705	11-12-19	90-41 90-51	<i>Ballrooms and banquet facilities prohibited in hotels in the H-40 zoning district; adopting distance separation standards between hotels; limiting event and meeting room space; prohibiting structured parking facilities; requiring that parking structures incorporate hotel and/or accessory uses</i>	
2020-1707	1-14-20	2-176 2-192		
2020-1708	1-14-20	3-6,3-7 3-13		
88.	1-14-20	90-85 90-87 90-88	<i>Synthetic turf standards adopted</i>	
89.	2020-1710		<i>Repealing 2018-1694 and adopting new setback and massing standards for H30A and H30B districts</i>	

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Note: Rule 9J-5 of the Florida Administrative Code requires the Future Land Use Map or map series to show land use categories, rivers, bays, lakes, floodplains, harbors, wetlands, minerals, soils, existing and planned public potable water wells and wellhead protection areas. This map shows land use categories, rivers, bays and lakes. Floodplains are shown on Figure 2. Soils are shown on Figure 3. Within the Surfside municipal limits there are no harbors, wetlands, minerals in economic quantities, existing or planned public potable water wells or wellhead protection areas. In accordance with Rule 9J-5.006 (4) (b) 6, F.A.C., the entire Town of Surfside is within the Coastal High Hazard Area.

1. State Coastal Construction Control Line as shown on Figure CM-2 of the 1989 Surfside Comprehensive Plan
2. Atlantic Ocean line as shown on Metropolitan Dade County Department of Public Works base map, revision date 7-19-78
3. Erosion Control Line
4. Atlantic Ocean water's edge and vegetated dune as shown on Kucera International aerial photograph dated 1-26-66
5. Municipal Boundary congruent with seawall
6. Indian Creek Village

DADE COUNTY

INDIAN CREEK VILAGE

INDIAN CREEK

POINT LAKE

BISCAYNE BAY

TOWN OF SURFSIDE

CITY OF MIAMI BEACH

ATLANTIC OCEAN

96th STREET

95th STREET

94th STREET

93rd STREET

92nd STREET

91st STREET

90th STREET

89th STREET

88th STREET

INDIAN CREEK

BAY DRIVE

SURFSIDE BOULEVARD

CLEMENCE AVE

HAWTHORNE AVENUE

GARLAND AVENUE

FROUDE AVENUE

EMERSON AVENUE

DICKENS AVENUE

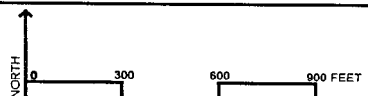
CARLYLE AVENUE

BYRON AVENUE

ABBOTT AVENUE

HARDING AVENUE

COLLINS AVENUE



2010 Future Land Use Map

land use categories, rivers, bays and lakes

FIGURE 1, TOWN OF SURFSIDE COMPREHENSIVE PLAN

PREPARED BY ROBERT K. SWARTHOUT, INCORPORATED MAY 1996