



Town of Surfside
Joint Town Commission and Planning and Zoning Board Meeting
AGENDA
February 23, 2022
6 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. Draft Zoning Code

A. Current Draft (Pages 1 – 196)

B. Comparison of Current Draft with March 2021 Draft (Pages 197 – 422)

3. Zoning In Progress (Pages 423 – 427)

4. Public Comment

5. Question & Answer (based on public comment)

6. Adjournment

Respectfully submitted,

Andrew Hyatt
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.

ARTICLE I – GENERAL

- Sec. 90-1. General rules of construction.
- Sec. 90-2. Definitions.
- Sec. 90-3. Enforcement, interpretation, purpose and conflict.
- Sec. 90-4. Policy and objectives.
- Sec. 90-5. Reserved.
- 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 development.
- Sec. 90-13. Outstanding permits; Certificate of Use.
- Sec. 90-14. Relationship to the Comprehensive Plan.
- Sec. 90-15. Projections into required yard areas.
- Sec. 90-16. Provision for storm drainage.
- Sec. 90-17. Zoning in progress, applicability, temporary hold on permits and licenses.
- Sec. 90-18. Charges for consulting services established.
- Sec. 90-19. Escrow accounts.
- Secs. 90-20 - 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.
- Secs. 90-41 - 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. Powers and Duties.
- Sec. 90-56. Expenditures; indebtedness.
- Sec. 90-57. Reserved.
- Sec. 90-58. Zoning Applications; rules of procedure.
- Sec. 90-59. Review of building permits.

Sec. 90-60. Special meeting or special public hearing.
Sec. 90-61. Design Review.
Sec. 90-62. Single-family and duplex development review process.
Sec. 90-63. Development review requirements for submittal other than single-family and duplex.

Secs. 90-64 - 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 and/or accessory use of land.
Sec. 90-74. Discontinuance of nonconforming uses.
Sec. 90-75. Discontinuance of nonconforming structure.
Sec. 90-76. Destruction of a nonconforming use.
Sec. 90-77. Reserved.
Sec. 90-78. Alterations or enlargement of nonconforming structures.
Sec. 90-79. Nonconforming uses not validated.
Secs. 90-80 - 90-90. Reserved.

DIVISION 4. SPECIAL EXCEPTIONS, CONDITIONAL USES AND VARIANCES

Sec. 90-91. Special exception and conditional use.
Sec. 90-92. Conditional uses.
Sec. 90-93. Special exceptions.
Sec. 90-94. Variances.
Sec. 90-95. Lapse of special exception, conditional use, or variance.
Secs. 90-96 - 90-101. Reserved.

DIVISION 5. – RESERVED

Secs. 90-102 - 90-122. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 90-123. Districts established.
Sec. 90-124. Identification of district maps.
Sec. 90-125. Interpretation of district boundaries.
Secs. 90-126 - 90-146. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

Sec. 90-147. Regulated Uses.
Sec. 90-148. Prohibited Uses.
Sec. 90-149. Home office.

Sec. 90-150. Reserved.
Sec. 90-151. Short term rental of single-family dwellings, duplex dwellings, multi-family dwellings and townhomes.
Secs. 90-152—90-156. Reserved.

Sec. 90-157. District regulations tables.
Sec. 90-158. H30A and H30B.
Sec. 90-159. H30C.
Sec. 90-160. H40.
Sec. 90-161. H120.
Sec. 90-162. SDB40.
Sec. 90-163. MU and CF.
Secs. 90-164 - 90-182. Reserved.

ARTICLE V. SUPPLEMENTARY REGULATIONS

DIVISION 1. GENERALLY

Sec. 90-183. Vision clearance.
Sec. 90-184. Rooftop Photovoltaic System.
Sec. 90-185. Fences, walls and hedges.
Sec. 90-186. Marine structures.
Sec. 90-187. Carports and car canopies.
Sec. 90-188. Outdoor receiving and broadcasting antennae.
Sec. 90-189. Construction adjacent to bulkhead lines.
Sec. 90-190. Reserved.
Sec. 90-191. Outdoor lighting.
Sec. 90-192. Miscellaneous elevations for seawalls, and groins.
Sec. 90-193. Aggregation of lots.
Sec. 90-194. Boat parking.
Sec. 90-195. Temporary storage of campers and house trailers.
Sec. 90-196. Reserved.
Sec. 90-197. Reserved.
Sec. 90-198. Emergency power generators.
Sec. 90-199. Awnings and canopies.
Sec. 90-200. Materials and finishes.
Sec. 90-201. Portable storage units.
Sec. 90-202. Accessory buildings and structures in the H30C, H40, SD-B40, and H120 districts.
Sec. 90-203. Service areas and mechanical equipment.
Sec. 90-204. Underground and above-ground utilities.
Sec. 90-205. Architecture.
Sec. 90-206. Roof deck provisions.
Sec. 90-207. Sustainability.

DIVISION 2. SIGNS

Sec. 90-208. General and miscellaneous provisions.
Sec. 90-209. Definitions.
Sec. 90-210. Sign permits.
Sec. 90-211. Sign design and appearance.
Sec. 90-212. Sign removal.
Sec. 90-213. Permanent signs by district.
Sec. 90-214. Temporary signs.
Sec. 90-215. Prohibited signs.
Sec. 90-216. Prohibited sign locations.
Sec. 90-217. Non-Conforming signs.
Sec. 90-218. Non-complying signs.
Secs. 90-219 - 90-227. Reserved.

DIVISION 3. OFF-STREET PARKING

Sec. 90-228. Off-street parking requirements.
Sec. 90-229. Interpretation of these requirements.
Sec. 90-230. Restricted and prohibited parking.
Sec. 90-231. Joint use and off-site facilities.
Sec. 90-232. Design standards for off-street parking.
Sec. 90-233. Retention of off-street parking trust fund.
Secs. 90-234 - 90-242. Reserved.

DIVISION 4.OFF-STREET LOADING

Sec. 90-243. Off-street loading requirements.
Sec. 90-244. Interpretation of the chart.
Sec. 90-245. Design standards for off-street loading.
Secs. 90-246 - 90-251. Reserved.

DIVISION 5. LANDSCAPE

Sec. 90-252. General.
Sec. 90-253. Landscape permit plans.
Sec. 90-254. Installation of landscaping and irrigation.
Sec. 90-255. Maintenance of landscaped areas.
Sec. 90-256. Plant material.
Sec. 90-257. Vegetative provisions.
Sec. 90-258. Landscape buffer areas between residential and non-residential properties and vehicular use areas.
Sec. 90-259. Reserved.
Sec. 90-260. Open space.
Sec. 90-261. Landscape buffers.
Sec. 90-262. Single-family H30A and H30B district landscape requirements.

Sec. 90-263. Preparer's certification of landscape compliance.
Sec. 90-264. Tree removal, tree relocation, tree preservation, and tree abuse.
Sec. 90-265. Landscape manual and materials.
Secs. 90-266 – 90-272. Reserved.

ARTICLE VI. – REASONABLE ACCOMMODATION AND RELIGIOUS LAND USE RELIEF PROCEDURES.

Sec. 90-273. Religious land use relief procedures.
Sec. 90-274. Reasonable accommodation procedures.
Sec. 90-275. Architecturally Significant Buildings.
Secs. 90-276 - 90-283. Reserved.

APPENDIX A – DESIGN GUIDELINES

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 word “*lot*” includes the word “*plot*”, “*parcel*”, “*tract*”, or “*site*,” unless the context indicates otherwise.
- (5) The words “used” or “occupied” include the words “intended,” “designed” or “arranged” to be used or occupied.
- (6) The words “required *yards*” or “minimum required *yards*” and “*minimum yards*” refer to the area within a required setback.
- (7) Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.
- (8) Italicized terms shall be interpreted consistent with their definition in sections 90-2, 90-209, or 90-252.

[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 or capitalized throughout this ordinance.

- (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) *Acre*: 43,560 square feet.

(4) *Aggregation*: The combining of *lots* through a *unity of title* or the platting process. Where used to combine *density* or *floor area*, *aggregation* shall only be permitted where approved as a special exception and only when a super majority of the Planning and Zoning Board, and the Surfside Commission has voted in the affirmative to approve the requested *aggregation*.

(5) *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 and utilities.

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, Miami-Dade County, or by the state.

(6) *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*.

(7) *Architecturally Significant Building*: A commercial *building* on Harding Avenue or any *hotel* or *multifamily* residence on Collins Avenue constructed prior to 1970 that has been determined by the Town to possess characteristics of a specific architectural style constructed in the *Town* pursuant to section 90-275 of the Town Code. The exterior of the *structure* must be recognizable as an example of its style and/or period, and its architectural design integrity must not have been modified in a manner that cannot be reversed without unreasonable expense. The three recognized significant architectural styles in the Town are Mediterranean Revival, Streamline Moderne, and Miami Modern.

(8) Reserved.

- (9) *Awning* means a detachable, roof-like cloth, canvas, vinyl, or other flexible material cover, supported from the *walls* of a *building* for protection from the sun or weather.
- (10) *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.
- (11) *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*.
- (12) *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.
- (13) *Building* means any *structure* having a roof supported by columns or *walls* for the shelter or enclosure of *persons* or property.
- (14) *Building area* means the area within the confines of the exterior *walls* of the *main building*, *accessory buildings*, covered porches and terraces.
- (15) *Building, completely enclosed*, means a *building* having no outside openings, other than doors, windows, and ventilators.
- (16) *Building, height of*, see *Height of Buildings or structures*.
- (17) *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.
- (18) *Bulk* describes 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*.
- (19) *Business*:
- (a) 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.
 - (b) Does not include the customary activities of religious, charitable, nonprofit service clubs and organizations or educational nonprofit

institutions as those terms are defined in F.S. ch. 205, as may be amended

(20) *Cabana* means a 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, sinks, and rubbing rooms, 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. Permanent *structures* serving the purpose of *cabanas* or that provide toilet facilities shall be considered *accessory buildings*. *Cabanas* shall be permitted only in conjunction with an outdoor swimming pool.

(21) *Canopy* means a detachable, roof-like 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.

(22) *Car canopy* means a roofed and usually *wall*-less shed either freestanding or projecting from the side of a *building*, used as a shelter for automobiles. The roof of a *Car Canopy* may be made of vinyl, cloth, or other flexible material.

(23) *Carport* means a permanent *structure* with a rigid roof that may or may not contain *walls* that is either freestanding or projecting from the side of a *building*, used as a shelter for automobiles.

(24) *Certificate of occupancy, final*: A document issued by the Town Building Official certifying that he/she reasonably believes a *building*, 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*. In lieu of a final certificate of occupancy, the Building Official may issue a temporary certificate of occupancy for a limited period of time provided all terms and conditions of all development approvals have been satisfied and upon additional terms and conditions deemed expedient for safe occupancy as determined by the Building Official.

(25) *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.

(26) *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.

(27) *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.

(28) *Conditional use* means any *use* listed in section 90-91 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.

(29) *Density*: The number of *dwelling units* per *acre* of land (43,560 square feet) of the *lot area* as herein defined. The *density* allowed on a *site* shall never exceed the limits set forth in the 2004 Comprehensive Plan.

(30) *Design Guidelines* are guidelines adopted by the Town of Surfside Commission, intended to provide direction and options for all development, and to serve as criteria for design review of development within the Town. As set forth in section 90-61, such guidelines are adopted as an exhibit to this ordinance and may be amended from time to time by Resolution of the Town Commission.

(31) *District* means any section of the Town within which the zoning *regulations* are uniform. See section 90-124.

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

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

(34) *Dwelling, two-family (duplex)*, means a *building* consisting of two *dwelling units*.

(35) *Dwelling, multiple-family*, also known as *multi-family* means a *building* consisting of three or more *dwelling units*.

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

(37) *Electric vehicle charging level*: The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged which include the following specifications:

1. Level 1 requires a 15 or 20-amp breaker on a 120-volt AC circuit and standard outlet;
2. Level 2 requires 40 to 100-amp breaker on a 240-volt AC circuit; or
3. Level 3 requires a 60-amp or higher dedicated breaker on a 480-volt and higher three-phase circuit with special grounding equipment. A Level 3 charging shall use an off-board charger to provide the AC to DC conversion, delivering DC directly to the car battery.

(38) *Electric vehicle charging station*: A parking space that is served by *Electric vehicle charging station* equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy source device in an electric vehicle.

(39) *Family*, in the context of the number of *dwelling units* permitted on a *lot of record*, 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 unit*.

(40) *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.

(41) *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.

(42) *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.

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.

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

(44) *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*.

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

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

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

(48) *Grade* means the average datum or elevation of the crown of the road serving the *lot* or *building site*.

(49) *Height of buildings or structures*, also referred to as *building height* shall be measured:

- a. *For flat roofs*: The vertical distance from the average datum or elevation of the crown of the road fronting the *lot* or *building site*, to the highest point of the roof.
- b. *For pitched roofs*: The vertical distance from the average datum or elevation of the crown of the road fronting the *lot* or *building site*, to the

top of the tie beam. A *pitched roof* shall have a maximum pitch of 4/12. Any roof that does not meet the definition of a *pitched roof* shall be considered a *flat roof*.

For the H120 *district* only, the maximum *building height* of 120 feet is measured from the elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The maximum *building height* shall not exceed +136.63 NAVD88 (or +138.2 NGVD29).

(50) *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 provided no facilities for service or basing of such aircraft are permitted.

(51) *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* 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 a separate utility meter serving any room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an *apartment*.

(52) *Impervious area*: An *area* covered by a material which does not permit infiltration or percolation of water directly into the ground

(53) *Indian Creek Bulkhead Line* means the *Bulkhead Line* as defined in section 14-101.

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

(55) *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.

(56) *Lot area* or *net lot area* means the total horizontal *area* within the *lot* lines of the *lot*. *Lot area* in the H120 *district* shall be calculated based on the area bounded by the west, north, and south *lot* lines and the *Bulkhead Line* on the east. The *area* between the erosion control line and the *Bulkhead Line* shall not be

counted as part of the *lot area* for calculation of *density*, *lot coverage*, or any other zoning calculation.

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

(58) *Lot coverage* means the percentage of the *Lot area* that, when viewed from above, would be covered by all principal and *accessory buildings and structures* (except *swimming pools, fences, screen enclosures, and pergolas*), or portions thereof. In the H30A and H30B single *family districts*, the *lot coverage* is limited to a maximum forty percent (40%) of the *lot*; provided however that the following exemptions shall not be included in determining the *lot coverage*:

- a. Uncovered steps and exterior balconies; and
- b. Uncovered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides; and
- c. Covered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides.

In no instance may the sum of the lot coverage and all exemptions permitted by (a) through (c) listed above exceed 48% of the *lot area*.

For avoidance of doubt, architectural elements extending beyond the vertical plan of exterior *walls*, such as roof eaves, shall not be counted as *lot coverage*.

(59) *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.

(60) *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*.

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

(62) *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.

(63) *Lot, through (double-frontage)*, means a *lot* having a frontage on two *streets* that do not intersect adjacent to the *lot*.

(64) *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.

(65) *Marijuana*: Any strain of cannabis or *marijuana*, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "*medical marijuana*."

(66) *Massing*: The expression of interior volume as exterior form.

(67) *Medical marijuana dispensary*: A retail establishment, licensed by the Florida Department of Health as a "*medical marijuana treatment facility*," "*medical marijuana treatment center*," "*dispensing organization*," "*dispensing organization facility*" or similar *use*, that sells and dispenses *medical marijuana*.

(68) *NAVD88* means North American Vertical Datum of 1988, a vertical control datum. 0 *NAVD88* is equal to +1.57 *NGVD29*.

(69) *NGVD29* means National Geodetic Vertical Datum of 1929, a vertical control datum. +1.57 *NGVD29* is equal to 0 *NAVD88*.

(70) *Nonconforming Lot* means a *Lot of record* which was legally established as a separate *building site* 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. A *Nonconforming lot* may only be improved if it meets the conditions and requirements of Section 90-71.

(71) *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.

(72) *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.

(73) *Ocean Bulkhead Line* means that *Bulkhead Line* as defined in section 14-86.

(74) *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, wash racks or accessories are sold or no other *business* conducted.

(75) *Parking space, off-street*, means a paved *area* not in the *street*, *alley*, or any other public property, meeting the minimum requirements of section 90-232, 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.

(76) *Person* means 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.

(77) *Pervious area* means an *area* maintained as *landscaping* (as that term is defined in Division 5 of Article V of this code, or covered by a Town-approved 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*.

(78) *Place of business*: Any *structure* used for the purpose of exercising the privilege of engaging in *business* within the Town limits.

(79) *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.

(80) *Public school*: A school operated by a governmental agency or jurisdiction, or a charter school established pursuant to Section 1002.33, Florida Statutes.

(81) *Regulations* means the whole body of *regulations*, text, charts, tables, diagrams, maps, notations, references and symbols, contained or referred to in this chapter.

(82) *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.

(83) *Roof deck*: An open, unroofed floor *structure* used in conjunction with a *main building* and installed on the roof of the highest floor in the *main building*.

(84) *Roof terrace*: an open, unroofed floor *structure* used in conjunction with a *main building* and installed on the roof of any floor other than the highest floor in the *main building*.

(85) *Rooftop photovoltaic solar system*: A system which uses one (1) or more photovoltaic panels installed on the surface of a roof, parallel to a sloped roof or surface- or rack-mounted on a *flat roof*, to convert sunlight into electricity.

(86) *Secondary frontage*: When referring to a *corner lot*, the *secondary frontage* shall be the widest portion of the *lot* abutting the *street*.

(87) *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*.

(88) *Setback* means the minimum distance for *lots* within a given *district* that all *structures* shall be from front, side and rear *lot* lines. *Setback* may also refer to the *yard area* adjacent to the particular *lot* line indicated, consistent with the definitions for *front yard setback*, *rear yard setback*, and *side yard setback* below. In this context, the words "in," "inside," and "within" refer to the *area* that is less than the minimum distance from the front, side, or rear *lot* line. "Outside" refers to the *area* that is located at a greater distance than the minimum distance from the front, side, or rear *lot* line. *Setbacks* create an open volume that extends from grade upwards through the *height of the building* and any *accessory structures* or *uses* permitted above the *height of the building*.

(89) *Setback, front yard* or *front setback* means the portion of a *yard* across the full width of the *lot* extending from the front property line to the front *setback*.

(90) *Setback, rear yard* or *rear setback* means the portion of a *yard* across the full width of the *lot* extending from the rear property line to the *rear setback* line, or for oceanfront lots, from the bulkhead line to the *rear setback* line.

(91) *Setback, side yard* or *side setback* means the portion of a *yard* between the side property line and the side *setback*, located between the front and rear *setbacks*.

(92) *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.

(93) *Story* means that portion of a *building* 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. Portions of the *building* beneath the first finished, habitable floor shall not be considered a *story* provided they are limited to a *basement* or other area that consists primarily of non-habitable, non-finished space devoted to *off-street parking*, storage, or recreational amenities, but may include a small habitable enclosure to provide access to the *building*, such as a lobby, foyer, or vestibule that does not exceed 10% of the *floor area* of the first finished floor.

(94) *Street* means a public thoroughfare which affords the principal means of access to abutting property.

(95) *Streetline* means a dividing line between a *lot* and the adjacent *street*. See also *lot frontage*.

(96) *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.

(97) *Structural alterations* means any change that would change the shape or size of any portion of the exterior of the *building* or *structure*, or any work affecting the supporting members of a *building* or *structure*, such as bearing *walls*, columns, beams, arches, floor or roof joists, or girders.

(98) *Substantial improvement*: Any combination of repairs, reconstruction, alteration or improvements to a *building*, taking place during a five-year period, in which the cumulative cost equals or exceeds 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 (as may be adjusted pursuant to applicable law);
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.

(99) *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; 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.

- 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 only if said units are larger than: 800 square feet for units with one bedroom or less, 1,000 square feet for two-bedroom units, and 1,200 square feet for three-bedroom units. For every bedroom over three bedrooms in a unit, the minimum size shall increase by 200 square feet.

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

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

(101) *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.

(102) *Unity of title*: An agreement executed by and between one or more property *owners* of more than one *lot*, which shall not be conveyed, sold, mortgaged, etc. apart from each other and shall be held together as one *tract*. Such *unity of title* shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property *owner(s)*, successors and assigns.

(103) *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.

(104) *Wall*. A *wall*, when used as a *site* feature, shall be so constructed that no less than 50 percent of the vertical surface above a *height* two feet from *grade* is open to permit the transmission of light, air and vision through such surface in a horizontal plane.

(105) *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*. The term *yard* is a synonym for *setback*.

(106) *Yard, front*, means the portion of a *yard* across the full width of the *lot* extending from the front property line to the front *setback*.

(107) *Yard, rear*, means the portion of a *yard* across the full width of the *lot* extending from the *rear setback* to the rear property line, or the *Bulkhead Line* for oceanfront properties.

(108) *Yard, side*, means the portion of a *yard* between the side property line and the side *setback*, located between the front and rear *setbacks*.

[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. 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.

(7) Where a formal written determination is made by the Town Planner pursuant to a written request from a member of the public, such interpretation shall be filed with the Clerk and maintained by the Town Planner in an official register of formal determinations.

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*, *massing*, 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. Reserved.

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 exception within the *district* in which the *building* or land is located. Permitted *uses* require final *site plan* review and/or design review approval, as set forth in these *regulations* and approval for compliance with the standards applicable to a particular permitted *use* as provided in this Zoning Code. 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. 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 SD-B40 and the H120 *districts*, all properties additionally shall have their *street* numbers displayed and clearly visible from the rear of the property.

(10) No *building* that requires a permit to place excavated sand seaward of the coastal construction control line shall be erected or moved unless applicant has complied with sections 34-2 to 34-8 and section 14-28 of the Town Code of Ordinances.

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

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

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 full kitchen shall be provided on each *lot*. This limitation shall not prohibit an additional Passover kitchen, outdoor summer kitchen, meat freezer, or similar accessory kitchen facility area that does not exceed 25 square feet and, when located indoors, cannot be accessed directly from the outside or closed off from the rest of the single family dwelling.

[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 the applicable *district regulations*, 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 development.

Nothing herein shall prohibit development and *use* authorized by a valid zoning approval issued prior to the effective date of the ordinance from which this chapter was derived, so long as (a) the subject property *owner* is in continuing timely compliance with all conditions of the zoning approval; (b) required *building* permits are obtained prior to the expiration of such zoning approvals; (c) construction pursuant to said *building* permits proceeds in an expedient manner; and (d) the master *building* permit does not lapse, expire, or is terminated by the Town Building Official. If (a) a zoning approval expires prior to obtaining a *building* permit; or (b) the conditions of approval are violated or not timely met; or (c) the master *building* permit for construction in furtherance of the zoning approval expires or is terminated by the Town Building Official, the zoning approval shall be null and void and thereafter, development of the *site* shall conform to this code irrespective of the terms of the previous zoning approval.

[Code 1960, § 18-13]

Sec. 90-13. Outstanding permits; Certificate of Use.

(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 does not conform to the requirements of this chapter, such permits shall be valid and may be completed and used in accordance with the plans and specifications upon which such *building* permit was granted, provided construction authorized by such permits proceeds expeditiously and the master *building* permit does not expire or is terminated by the Town Building Official.

(b) Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid zoning approvals, authorizing the *use* of land or *buildings* without construction work, and where such *use* is not permissible under the terms of this chapter, such zoning approvals shall be rendered void unless the *use* is implemented and in actual operation pursuant to a valid *certificate of use* prior to the date the zoning approval expires and the subject property *owner* is in continuing timely compliance with all conditions of the zoning approval and *certificate of use*. Any *use* not voided by operation of this section shall be considered a legal *nonconforming use* subject to Division 3 of this Code.

[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 Articles IV and V.

[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 of the Town Code regarding storm drainage management. Such requirements shall apply to all *Accessory Buildings* or *Structures* or *uses* serving such *Structures*.

[Code 1960, § 18-17]

Sec. 90-17. Zoning in progress, applicability, temporary hold on permits and licenses

(1) Purpose. The zoning in progress doctrine (“zoning in progress”) allows the Town to apply, on a retroactive basis, if necessary, changes to zoning *regulations* or to the zoning *district* status of property, to development applications currently in process or development applications submitted prior to enactment of changes to zoning *regulations*. Additionally, zoning in progress allows a temporary hold

on applications for 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 apply 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 paragraph (3) below. 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 the Town is considering an amendment to the zoning *regulations* or the zoning map, the Town may impose a temporary hold on any development applications pending before the Town with respect to 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 (the "cut-off date") 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 months, whichever is sooner. The temporary hold shall not apply to development applications that conform with the more restrictive of the existing zoning text or map designation or the proposed zoning text or map designation. 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-18. 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 charged 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 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-19. 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 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 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.

Secs. 90-20 — 90-35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 90-36. Comprehensive Plan.

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.

[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, demolished, 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 from the last documented activity on the permit.

(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, signed, and sealed 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 Town Planner and the Planning and Zoning Board, for compliance with this chapter shall be required. Applicant shall, with the filing of such request, pay all applicable fees as provided in the Town's schedule of fees.
 - (5) A *plot* plan showing provisions for adequate drainage where required.
 - (6) A rendering showing details of materials to be used on the exterior of the *building*.
 - (7) A detailed *landscaping* plan, prepared by a registered *landscape* architect, including scale demonstrating actual size of plants to be used.
- (c) A property *owner* shall provide notice of an application for demolition permit to all abutting *owners* no less than seven (7) days prior to initiating demolition pursuant to a validly issued permit.

[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, signed and sealed 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.

(d) Compliance with conditions placed on any development approvals shall be due prior to the issuance of any type of *certificate of occupancy*, including a Temporary *certificate of occupancy*, unless some other date or milestone is expressly identified in the development approval.

[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

substantially 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.

(d) Adoption method for land use and zoning map changes. Applications for amendments to the land use map and rezonings shall be adjudicated through the same procedures as required for ordinance adoption required by law.

(e) Zoning change criteria. 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:

1. The zoning change is consistent with the Comprehensive Plan;
2. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the *site*;
3. The resulting boundaries of the zoning *district* are logically drawn;
4. The proposed change will not reduce property values in the Town;
5. The proposed change will enhance the quality of life in the Town; and
6. There are substantial and compelling reasons why the proposed change is in the best interests of the Town.

[Code 1960, § 18-79]

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

Secs. 90-41-90-50. Reserved.

DIVISION 2.PLANNING AND ZONING BOARD

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.

The Planning and Zoning Board shall consist of five members and a first alternate member and a second alternate member. 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. The first and second alternates shall be appointed at-large by the majority vote of the Commission present at the meeting. The term of each board member and alternate appointment shall begin on the last Thursday of April of the year in which the board member or alternate is appointed and end when a successor is appointed or on the last Thursday in April, whichever dates comes first. One board member or one alternate member appointed shall have education and/or experience in sustainability and resiliency, which may include environmental science. At least three of the members or alternates must be one of the following:

1. Florida-licensed general contractor or a construction management professional with at least three years of professional experience as a construction project manager, construction superintendent or construction estimator;
2. Florida licensed PE or a civil, mechanical, electrical, chemical or environmental engineer with a baccalaureate degree in engineering and three years of professional experience;
3. Certified planner (AICP) or a planning professional with a graduate degree in planning from a program accredited by the Planning Accreditation Board with at least three years of professional planning experience or a bachelor's degree in planning from a program, accredited by the Planning Accreditation Board (PAB) with at least three years of professional planning experience;
4. Florida-licensed *landscape* architect with at least three years of professional experience;
5. Registered interior designer with at least three years of professional experience;

6. Florida-licensed attorney with at least three years of professional experience; or
7. Florida-licensed architect.

(a) 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.

(b) The board year shall commence on the last Thursday of April in each year. Regular meetings of the board shall be held on the last Thursday 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.

(c) 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.

(d) Meetings of the board may be held in the Town hall or community center, or virtually when otherwise permitted by law or emergency order. Special meetings must be called by the chairman upon approval of a quorum. Records shall be kept of all proceedings.

(e) Alternate participation: Alternates shall be subject to the same attendance and participation requirements as members. Alternates may participate in all board discussions but may not vote unless sitting as a substitute for a member. In the event a member is absent or unable to participate in an item before the board, the first alternate or if the first alternate is unavailable, the second alternate, shall fill the absent or recused member's position for the duration of that member's absence.

(f) A vacancy shall exist: (1) on the date that any member or alternate ceases to possess the minimum required membership qualifications provided herein; (2) when a board member or alternate has been absent from three consecutive regularly convened board meetings or has been absent from five regularly convened board meetings within a board year; or (3) for members if the appointing Commissioner resigns or his position otherwise becomes vacant during his/her term. 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, provided however if the seat shall remain vacant longer than a three-month period for any reason, the Town Commission may collectively, by majority vote, appoint a temporary member until such Commission position is filled in accordance with the Town Charter and Code. 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.

(g) Removal: At any time that the Town Commission determines that one or more board members are not acting in the best interests of the Town's residents, it may vote to remove said board member (s) and replace in the manner set forth for filling vacancies in subsection (f) above.

(h) Officers: The board shall elect one of its members as chairman and one 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 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.

(i) 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.

[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. Power 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. 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;

(c) To review and make recommendations to the Town Commission, on applications pertaining to *site plans* (if applicable) zoning changes, special exceptions, *conditional uses*, variances, 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 as needed from time to time to sit in a joint session with the Town Commission as 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.

(3) FEMA review: The Planning and Zoning Board shall act as the variance and appeals board pursuant Chapter 42, "Floods

[(Ord. No. 1524, § 2, 6-09-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 18-1689 , § 2, 9-12-18)]

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. Reserved

[Code 1960, § 18-88]

Sec. 90-58. Zoning Applications; rules of procedure.

The following rules shall govern procedure on all applications for zoning changes, special exceptions, *conditional uses*, variances, and/or design review/*site plan* approval pursuant to Section 90-63:

(1) All applications shall be submitted to the Planning and Zoning Board on the prescribed form and accompanied with the prescribed fee(s) as listed in the Town's adopted schedule of fees. The application shall be placed on a Planning and Zoning Board agenda for public hearing not later than 45 days after receipt of a complete application for zoning change, special exception, *conditional use*, or variance request. The board shall make its views and recommendations known to the Town Commission for the Town Commission's final determination. If the board fails to consider the application within the prescribed time, the Commission shall assume its duties. The Planning and Zoning Board may defer the application for further consideration for a period not to exceed 60 days, but thereafter must take action on the application.

(2) A public hearing shall be advertised at least once in a local newspaper of general circulation and publicly posted in the Town hall as required by Florida Statute. Written courtesy notices shall be sent at the *applicant's* expense by first class mail, return receipt requested, to affected property *owners* within a radius of 375 feet at least ten (10) days before the hearing. 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 family dwelling," "meat market" rather than "SDB40" or "*business zoning*." Such notice shall be approved by the Town Planner prior to mailing and proof of such mailing shall be submitted to the Town prior to the hearing.

(3) 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:

REQUEST FOR: [INSERT PLAIN LANGUAGE DESCRIPTION OF
APPLICATION REQUEST]
PLANNING AND ZONING BOARD/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 CLERK OR CHECKING THE TOWN'S
PLANNING & ZONING WEBSITE AT [INSERT CURRENT TOWN WEBSITE].

You are encouraged to attend the meeting
or otherwise provide your comments in writing
to the Town Clerk prior to the meeting
(Yellow background/black letters)

Such notice shall be posted by the applicant, at its expense, not less than ten (10) days prior to such hearing, and shall be removed the notice three days after the appropriate board takes final action regarding the application.

(4) All notices shall contain the requested zoning approval including a description of the proposed development in laymen's language in accord with subsection (3) of this section (*i.e.* "Variance to allow a *setback* of 5 feet from the north side where 10 feet is required for a three *story multifamily building* at 89xx Harding Avenue"). Posted notice shall be of standard size in standard colors, approved by Town Manager 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 variances, *conditional uses* and special exceptions shall follow this section and the applicable requirements of Division 4 of this Article II.

(7) A copy of each variance, special exception, *conditional use*, *site plan* approval, or zoning change and ordinance affecting change in this chapter shall be filed with the Clerk.

(8) Compliance with conditions placed on any development approvals shall be due prior to the issuance of any type of *certificate of occupancy*, including a temporary *certificate of occupancy*, unless some other date or milestone is expressly identified in the development approval.

[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 as provided in section 90-61.

(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 *structures* and property that are consistent with this code and the *Design Guidelines*. 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*, and any other *structure* or improvement on the premises.

[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 or Town Commission should call a special meeting or special public hearing other than specifically required by this chapter, the applicant shall thereupon pay the appropriate fee for such meeting set forth in the Town's adopted fee schedule to help defray the costs and expenses of calling the special meeting or special public hearing. The applicant shall also pay any other applicable fees as listed in the Town's adopted fee schedule. 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]

Sec. 90-61. Design Review

The design review process is set forth as follows:

(a) Design review process.

(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 Planning and Zoning Board shall review and evaluate applications 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 hereto as Exhibit A [at the end of this chapter] 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.

i. All applications for *new developments* or improvements that are subject to the Town's adopted *Design Guidelines* shall be referred to the Planning and Zoning Board for review and consideration.

ii. The board shall review each application whether for development of *single-family, multifamily*, commercial or other *districts* for conformity with the Town's adopted *Design Guidelines* and approve, approve with conditions, or disapprove the design review application. With regard to the design review process, no applicant shall be required to appear before the board more than twice per application.

iii. 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) Design review applications which are made in conjunction with other development approval applications may be reviewed and considered concurrently with related development approval applications.

(5) Design review of additions or alterations to existing *single-family* homes shall be prioritized and shall be placed in Planning and Zoning Board agendas prior to new construction of *single-family* or non-single *family* applications.

(6) Design review applications for *single-family* or *duplex* development shall be placed on a Planning and Zoning Board agenda within thirty (30) days of submittal of a complete application.

Sec. 90-62. - Single-family and duplex development review process.

1. Permits. No *single-family* or *duplex 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 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 180 days.

2. Building Official Review. 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, including design review approval, and that all fees have been paid.

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.

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.

5. Design Guidelines. The Town has adopted *Design Guidelines* intended to provide direction and suggestions for all development. The Planning and Zoning Board shall apply this code and the *Design Guidelines* in evaluating the application. The Planning and Zoning Board may approve, approve with conditions, or disapprove the application.

6. Design Review. *Single-family* and *duplex* development shall be subject to design review by the Planning and Zoning Board. The following types of applications shall require noticing as described below:

- a. Construction of new *single-family* homes.
- b. Partial demolition and rebuilding of at least 50 percent of the square footage of a *single-family* home where the exterior facade of the *structure* is affected.
- c. An addition of at least 50 percent of the square footage of the existing *single-family* home.

The applicant shall notify the public of the Planning and Zoning Board hearing date and location, on the proposed application as follows:

- a. The applicant, at its expense, shall post a notice on the property no less than ten (10) days prior to the Planning and Zoning Board meeting and remove the notice three days after the conclusion of the Planning and Zoning Board meeting. A notice, 18 inches by 24 inches, shall be placed in a prominent place on the property by the applicant, denoting the following:

REQUEST FOR: [INSERT PLAIN LANGUAGE DESCRIPTION OF
APPLICATION REQUEST]
PLANNING AND ZONING BOARD/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 CLERK OR CHECKING THE TOWN'S
PLANNING & ZONING WEBSITE AT [INSERT CURRENT TOWN WEBSITE].

You are encouraged to attend the meeting
or otherwise provide your comments in writing
to the Town Clerk prior to the meeting
(Yellow background/black letters)

Such notice shall be posted by the applicant, at its expense, not less than ten (10) days prior to such hearing, and shall be removed the notice three days after the appropriate board takes final action regarding the application.

All notices shall contain the requested zoning approval including a description of the proposed development in laymen's language in accord with subsection (3) of this section (i.e. "Design review of single-family home at 89xx Abbot"). Posted notice shall be of standard size in standard colors, approved by Town Manager before erection.

- b. The applicant shall, at its expense, mail written courtesy notices via certified mail, to the abutting *single-family* property owners, including those owners of property that are diagonal to the subject property, and *single-family* property owners located across any right-of-way, including those owners of property that are diagonal to the subject

property, of the Planning and Zoning Board meeting date and location ten days prior to the meeting.

- c. The applicant shall provide the Town the corresponding certified mail receipts, indicating the notices have been mailed and provide evidence that the *sign* has been posted three days prior to the Planning and Zoning Board meeting.

7. The following shall be exempt from Planning and Zoning Board and design review; however, the *Design Guidelines* shall be followed:

- a. Interior or *rear yard fences*.
- b. Interior renovations.
- c. *Single-family* and *duplex awnings*.
- d. Screens.
- e. Driveways.
- f. Re-roofs.
- g. Trellis.
- h. Storage sheds.
- i. Decks at a height no more than 18 inches from *grade*
- j. Pools
- k. Rear decks not visible from the right-of-way

8. The following are required for submittal to the Planning and Zoning Board for design review applications:

- a. Survey with *site* elevation information in NAVD88 and NGVD29 (plans must follow same standards)
- b. Location sketch
- c. *Site plan* with zoning data table and clear dimensions
- d. Elevations
- e. Floor plans
- f. *Landscape* drawings
- g. Photos of property and neighboring properties with clear descriptions
- h. Renderings
- i. Diagrams depicting identification and calculation of:
 - i. *Lot coverage*
 - ii. *Landscape/pervious_areas*
 - iii. *Setbacks*
- j. For applications adding second floor to existing first floor, must show *building* appraisal to determine 50% trigger for additional requirements/improvements (to be reviewed by *Building Department*)
- k. Identification of colors and materials

9. Effective period of Planning and Zoning Board design review approval. A design review approval from the Planning and Zoning Board shall be effective until the development is completed except that if, after 24 months from the date of the approval by the Planning and Zoning Board a *building* permit for a principal *building* has not been issued and remains in effect, the approval shall be null and void.

a. Extensions for good cause, not to exceed a total of one 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.

b. 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 years after the effective date of this chapter. The foregoing provision of this paragraph shall not apply if the governmental approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

10. **Appeals.** A Planning and Zoning Board decision on design review of a *single-family* or *duplex* application may be appealed to the Town Commission within seven (7) days of the decision by the applicant or an abutting neighbor h. Appeals shall be considered on a de novo basis, and the Town Commission may approve, approve with conditions, deny, or remand the application to the Planning and Zoning Board for further action.

(Ord. No. 1514, § 2, 4-14-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1604, § 2, 8-13-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 1623, § 2, 7-8-14; Ord. No. 1650, § 2, 8-10-16 ; Ord. No. 17-661 , § 3, 5-9-17; Ord. No. 18-1689 , § 2, 9-12-18)

Sec. 90-63. Development review requirements for submittals other than single-family and duplex.

(1) **Generally.** Review and approval of a *site plan* by staff reviewing agencies, and the Town Commission, following a hearing and recommendation by the Planning and Zoning Board, is required prior to any development of land for any use other than *single-family* or *duplex* 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. In reviewing an application each reviewer shall consider, and comment as

appropriate, on applicable issues relevant to their particular *area* of expertise, the extent to which:

- i. The development, as proposed, conforms to the Comprehensive Plan and the zoning code;
- ii. The development, as proposed, will have a favorable or unfavorable impact on the environment and natural resources, including a consideration of the means and estimated cost necessary to minimize the adverse impacts, if any;
- iii. The development, as proposed, will have a favorable or unfavorable impact on the economy of the Town of Surfside;
- iv. The development, as proposed, will efficiently *use* or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities which have been constructed or planned and budgeted for construction in the area;
- v. The development, as proposed, will efficiently *use* or unduly burden or affect public transportation facilities, including mass transit, public *streets*, and roads, which have been planned and budgeted for construction in the *area*, and if the development is or will be accessible by private or public roads or *streets*.
- vi. The development, as proposed, is consistent with the community character of the immediate neighborhood. In addition to consistency there must be congruity between the subject development and neighboring improvements and surroundings including but not limited to form, spacing, heights, *setbacks*, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.
- vii. In the event of *redevelopment*, the applicant shall also submit a detailed plan for demolition.

(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 Planning and Zoning Board meeting. The Town Manager or designee shall prepare a report to the Planning and Zoning Board and Town Commission, addressing the applicable criteria. In formulating its recommendation, the Planning and Zoning Board shall consider the applicable criteria, *Design Review Guidelines*, and these *regulations*. In formulating its decision, the Town Commission shall consider the applicable criteria, *Design Review Guidelines*, these *regulations*, and the Planning and Zoning Board recommendation. The Town Commission may place conditions on the approval.

(3) Submittal requirements for DRG and Planning and Zoning Board are provided below.

- a. Survey with site elevation information in NAVD88 and NGVD29 (plans must follow same standards)
- b. Location sketch
- c. *Site plan* with zoning data table and clear dimensions
- d. Elevations

- e. Floor plans
 - f. *Landscape* drawings
 - g. Photos with clear descriptions
 - i. Of property and neighboring properties
 - h. Renderings
 - i. Context diagrams – showing proposed in context of neighboring *structures*
 - j. Streetscape diagrams for all frontages
 - k. Diagrams depicting identification and calculation of:
 - i. *Lot coverage*
 - ii. *Landscape/pervious areas*
 - iii. *Setbacks*
 - l. Elevations
 - m. Floor plans for all levels
 - n. *Landscape* drawings
 - o. Parking calculations
 - p. Shade study diagram
 - q. Sections
 - r. Identification of colors and materials
- (4) Notice. Notice of the Planning and Zoning Board meeting and Town Commission meetings shall be provided as described in Section 90-58.
- (5) Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require *site plan* approval, but may require design review approval by the Planning and Zoning Board:
- (a) The deposit and contouring of fill on land.
 - (b) Construction of a *single-family* home on an existing *single-family lot*.
 - (c) Construction of a single *duplex* on an existing single *lot*.
- (6) Effective period of final *site plan* approval. An approved final *site plan* shall be effective until the development is completed except that if, (a) after 12 months from the date of final *site plan* approval, the property *owner* has not submitted *building* permit plans for review and expeditiously pursued a *building* permit, as determined in the sole discretion of the Town Manager; or (b) after 24 months from the date of final *site plan* approval, a *building* permit for a principal *building* has not been issued and remains in effect, the *site plan* shall be null and void.
- (a) Extensions for good cause, not to exceed a total of one 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 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.

(b) 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 years after the effective date of this chapter. The foregoing provision of this paragraph shall not apply if the governmental approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

(Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 18-1689, § 2, 9-12-18)

Secs. 90-64 - 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 vacant 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.

Sec. 90-73. Nonconforming use of buildings and/or accessory use of land.

Except as otherwise provided herein, the lawful *use* of a *building* or lawful *accessory use* of land 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.

Notwithstanding anything to the contrary in Article 3 of this Code, any legally established *hotel*, including any legally established *accessory uses*, may continue as a permitted *use* unless discontinued in the manner provided in Section 90-74, and may be re-instituted upon reconstruction of the *structure* following accidental or catastrophic destruction due to circumstances outside of the control of the property *owner* or its agents.

[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. 90-75. 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 90-75 shall apply to all *nonconforming structures*, including those which became idle or in an unused condition prior to the adoption of this section 90-75.

[Ord. No. 1449, § 2, 1-13-04]

Sec. 90-76. Destruction of a nonconforming use or structure.

(a) 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* or *structure* 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 are the subject of a valid *building* permit obtained within 18 months of the date of such damage, provided the repair or reconstruction proceeds expeditiously and the *building* permit does not expire, or is terminated by the Town Building Official.

(b) Notwithstanding anything to the contrary in this zoning code, and due to the extraordinary circumstances involving the unexpected collapse of the Champlain Tower South, the property located at 8777 Collins Avenue, consisting of approximately 1.3 acres of net *lot area*, shall be permitted to be developed with the same height (total dimension), number of units, and total *floor area* as depicted in the original *building* permit plans, as amended, for the Champlain Towers South on file with the *building* department (the "CTS Permit Plans"). Except as modified in this subsection, all other applicable land development *regulations*, including any limit on the number of stories, shall apply to new development. Nothing in this subsection shall obligate development of the 8777 Collins Avenue property with the height, number of units, and total *floor area* depicted on the CTS Permit Plans, but if the property is developed under this subsection with a height and/or maximum number of units that exceeds the height and/or number of units that would be otherwise allowed under this zoning code, then the maximum *floor area* allowed for the property shall be limited to the *floor area* depicted in the CTS Permit Plans.

Sec. 90-77. Reserved

Sec. 90-78. 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. the degree of non-conformity is not increased; and
2. the enlargement or alteration itself conforms to the requirement of these *regulations*; or

3. Alterations or additions to *architecturally significant buildings* on H120 zoned *lots* that are nonconforming as to *setbacks* may extend existing *setbacks* as long as the alteration or addition maintains the architectural integrity of the existing *building*. The lesser of the current code-required *setback* or the existing *setback* shall be deemed to be the required *setback* line.

Redevelopment projects seeking to utilize the *setback* exception of this subsection shall be limited to a total height of no more than twice the number of existing floors in a *building*, up to a maximum of 120 feet.

Existing <i>Building</i> Floors	Maximum of Floors of <i>Redevelopment/Expansion</i> using Exception	Number
1	2	
2	4	
3	6	
4	8	
5	10	
6 and above	12	

Any *redevelopment* project undertaken under this subsection must comply with the Town's minimum finished floor elevation requirements for all portions of the *building* and further must be designed and developed in accordance with Leadership in Energy & Environmental Design (LEED) or Florida Green Building Coalition (FGBC) *building* design and construction standards.

4. Alterations or additions to any *single-family* home built prior to 1970 that is nonconforming as to *setbacks* or *lot coverage* may extend existing *setbacks* and increase *lot coverage* over applicable limitations by up to 5% provided the Planning and Zoning Board finds that the alteration or addition maintains the architectural integrity of the existing *building*, is compatible with adjacent *buildings*, and is designed with sensitivity toward adjacent properties. The lesser of the current code-required *setback* or the existing *setback* shall be deemed to be the required *setback* line.

Sec. 90-79. 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. 90-80--90-90. Reserved.

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DIVISION 4. SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS AND VARIANCES

Sec. 90-91. 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) Religious institutions
- (2) Institutions educational or philanthropic, including museums, but not including nursing homes or hospitals.
- (3) *Off-street parking lots.*
- (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* 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*.
- (7) *Bars*
- (8) *Hotel swimming pools* in the H30, H40, and H120 *districts*

- (9) Veterinary office
- (10) Pump stations in MU and CF *districts*
- (11) *Electric vehicle charging stations* in the MU and CF *districts*.
- (12) Outdoor dining facilities in the H40 and H120 *district*
- (13) Car canopies, constructed of canvas and pipe in accordance with section 90-187 in a front, side or *rear yard setback* in the H30A, H30B and H30C *districts*
- (14) *Helistop* / Heliport
- (15) *Hotels* and *Suite-hotels* as adaptive re-use of historically designated *buildings* in the H40 district
- (16) Any other *use* set forth as a *conditional use* elsewhere in this code

(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 sign and sealed 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 90-96**. 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.

(e) Annual Permit Requirements. After approval by the Town Commission, a *Conditional use* shall be required to obtain an annual permit. The Town Manager or designee shall review the annual permit application to determine if the *Conditional use* continues to comply with requirements of this Code and any additional conditions approved by the Town Commission. This permit shall include a fee as established by the Town Commission. The permit shall be submitted for and proceed concurrently with the annual *business tax receipt*.

(f) Revocation. If the *Conditional use* fails to meet requirements of this Code or the conditions approved by the Town Commission, a *conditional use* permit may be revoked after the *Conditional use* permit holder has been notified of these deficiencies. The administrative decision to revoke the *Conditional use* may be appealed to the Town Manager within thirty (30) days of the revocation. The Town Manager shall schedule an informal hearing with the applicant and his decision shall be rendered within ten days of the meeting in writing. That decision will be considered final. Any decision made by the Town Manager regarding *Conditional use* permits may be appealed to the Town Commission.

(g) Approval of a *conditional use* under this section shall lapse and/or be extended under the provisions of section 90-95.

[Code 1960, § 18-69; Ord. No. 1407, § 1, 1-11-00]

Sec. 90-92. 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 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 four members of the 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.
 - (9) For a heightened variance, the requested variance(s) and the project they are a part of are all in the best interest of the Town.
- (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
 - (j) shall constitute grounds for revocation of the variance.
- (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]

Section 90-93. Reserved.

Sec. 90-94. Special exceptions.

The following are special exceptions which may be granted by resolution requiring at least four affirmative votes of the Town Commission:

- (1) *Nonconforming uses* as follows:
 - a. To determine the existence of a *nonconforming use* as required under division 3 of this article.
- (2) Other special 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*.
 - b. *Aggregation of lots* for a unified development *site* that increases *density* and/or *floor area*, provided same has also been approved by a super-majority of the Planning and Zoning Board.
- (3) Any other *use* or development activity specified elsewhere in this code as requiring a special exception.

[Code 1960, §§ 18-70, 18-71]

Sec. 90-95. Lapse of special exception, conditional use or variance.

After the Town Commission has approved a special exception, *conditional use*, or variance, the special exception, *conditional use*, or variance so approved or granted shall lapse and shall be null and void if, (a) after 12 months from the date of approval, the property owner has not submitted *building* permit plans for review and expeditiously pursued a *building* permit, as determined in the sole discretion of the Town Manager; or (b) after 24 months from the date of the approval, a *building* permit for a principal *building* has not been issued and remains in effect; or (c) after 12 months from the date of the approval, the change in *use* in accordance with the plans for which such special exception, *conditional use*, or variance was granted has not been implemented.

However, for good cause shown, the Town Commission may grant an extension of up to one year provided the *owner* requests the extension prior to the expiration of the original approval.

Sec. 90-96. Special exception and conditional use procedures.

(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 exceptions or conditional uses. 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 exceptions or *conditional uses* 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 exception or *conditional use*, pay to the Town the applicable fee set forth in the Town's adopted fee schedule, which fee shall be nonrefundable. The applicant shall also pay any other applicable fees as listed in the Town's adopted fee schedule.

(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 application. Where applicable to the activity or development for which a special exception or *conditional use* is required and where necessary to formulate a decision on an application for special exception or *conditional use*, 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 the special exception or *conditional use* 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 exception or *conditional use* approvals. Approval 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 the application.

(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 exceptions or conditional uses.

(1) The Town Commission shall be solely responsible for determinations on applications for special exception or *conditional use*.

(2) The Town Commission shall refer all applications to the Planning and Zoning Board for recommendations after holding a public hearing, 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 an application. The Town Commission may approve, approve with conditions, or deny an application.

(4) An application 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 exception or *conditional use*, 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) 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 the terms of approval of the special exception or *conditional use*, 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.

(h) 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 exception or *conditional use* unless and until any and all required special exception or *conditional use* approvals 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 exception or *conditional use* approvals herein in relation thereto have been obtained.

[Code 1960, § 18-75]

Secs. 90-97--90-101. Reserved.

DIVISION 5. – Reserved

Secs. 90-102- 90-122. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 90-123. 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:

- (1) H30A and H30B. *Districts* wherein *building* masses are restricted to a maximum *building height* of 30 feet.
- (2) H30C. A *district* wherein *building* masses are restricted to a maximum *building height* of 30 feet. *Density* is limited to 17 *dwelling units* per *acre* of *net lot area*.
- (3) H40. A *district* wherein *building* masses are restricted to a maximum *building height* of 40 feet. *Density* is limited to 79 *dwelling units* per *acre* of *net lot area*. Properties north of 94th *Street* fronting on Collins Avenue may be limited to 58 *dwelling units* per *acre* of *net lot area* as set forth in the Town Comprehensive Plan.
- (4) H120. A *district* wherein *buildings* are restricted to a maximum *building height* of 120 feet. *Density* is limited to 75 *dwelling* or *hotel* units per *acre* of *net lot area*.
- (5) SD-B40: A special *district* wherein *building* masses are restricted to a maximum *building height* of 40 feet and a *floor area ratio* of 3.0
- (6) Municipal (MU). Town-owned properties and park. Municipal zoning *districts* are designated as Town-owned lands are acquired.
- (7) Community Facilities (CF). Town-owned community facilities.

Sec. 90-124. 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 originally adopted on August 8, 2010, as part of Ordinance No. 1558 and re-adopted along with this ordinance. 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. 90-125. 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 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.

(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. 90-126--90-146. Reserved.

ARTICLE IV. DISTRICT REGULATIONS.

Section 90-147. 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)	-
<i>Duplex</i>	-	-	P	P	P	-
Multi-dwelling structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
Lodging uses						
Hotel	-	-		CU(32)	-	-
Suite-Hotel	-	-		CU(32)	-	-
Office Uses and Professional Services						
Banks	-	-	-	-	-	P

Business and professional 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 <i>clinic</i>	-	-	-	-	-	P(9)
<i>Medical marijuana dispensary</i>	-	-	-	-	-	-
Psychic reading, advising, and consulting, palmistry, clairvoyance, astrological interpretation, tarot card reading, spiritual consultation, or fortune telling	-	-	-	-	-	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
Veterinary office	-	-	-	-	-	CU(25)
Retail and General Commercial Uses						
Antique shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art dealers	-	-	-	-	-	P
Art supplies	-	-	-	-	-	P
Beauty/personal services	-	-	-	-	-	P(19)
Health club or studio	-	-	-	-	-	P(16, 19)
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines			-	-		P(15)

Department stores	-	-	-	-	-	P
Drug stores	-	-	-	-	-	P(30)
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 (31)
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(20)
Shoes	-	-	-	-	-	P
Sporting goods			-	-		P
Stationery and greeting cards	-	-	-	-	-	P
Sundries	-	-	-	-	-	P
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P
Video tapes sales and rentals	-	-	-	-	-	P(12)
Food Services						
Bakeries						
Candy and nut shops			-	-		P(13)

Caterers	-	-	-	-	-	P
Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit shops			-	-		P(13)
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
Outdoor dining facilities						P(24)
Educational Services						
Dance or music instruction studios						
Institutions, educational or philanthropic, including museums						CU
Driving school offices			-	-		P(9, 21)
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public schools	-	-	P	P	-	-
Places of Assembly						
See RLUIPA Map and Ordinance 07-1479						
Civic Uses						
Parks and open space						
Playgrounds	P	P	P	P	P	-

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional use*

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	CU(23)	CU(23)
Parking	P	-
Electric Vehicle Charging Station	P(29)	P(29)

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional use*

<i>Accessory uses</i>	H30A	H30B	H30C	H40	H120	SD-B40
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)	-
Swimming pools	P(2)	P(2)	P(2)	P(2)	P(2)	-
Hotel Swimming pools	-	-	CU(2)	CU(2)	CU(2)	-
Vending machines	-	-	P(6)	P(6)	P(6)	-
Bar	-	-	-	-	CU(2)	P
Outdoor dining facilities	-	-	-	CU	CU	-
Electric Vehicle Charging Station	P(27)	P(27)	P(28)	P(28)	P(28)	P(29)
Pet Grooming						P(31)
Heliport/helipad				CU	CU	CU

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional use*

(d) Uses table notes.

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

- (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 percent of the gross *floor area* of the *building* for administration of rental units in a *building* containing ten 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 or more living units or guest rooms.
- (7) No new *Hotels* or Suite *Hotels* shall be permitted after the effective date of this zoning code. Only *Hotels* and Suite *Hotels* existing as of the effective date of this zoning code are permitted. Such existing *Hotels* and Suite *Hotels* may provide a beauty/personal services, 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 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.
- (9) Shall only be allowed above the first floor. This shall apply to all service agency categories.
- (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 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) Reserved.
- (19) Services including tanning, hair removal (except for shaving normally associated with barbershops) and licensed therapeutic massage shall not be visible from the public right-of-way.

(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.

(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.

(22) 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*.

(23) Reserved.

(24) Outdoor dining facilities on private property shall be permitted subject to all applicable zoning code requirements. Outdoor dining facilities that are on public right-of-way shall be solely subject to the open air cafe requirements provided in chapter 18 of this Code of Ordinances.

(25) Veterinary office is a facility for the diagnosis and treatment of pet animals.

Pet animals are defined as dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds and fish retained for the purposes of being kept as a household pet.

Veterinary offices approved by *conditional use* are subject to the following:

- a. Animals shall be walked on the premises in an enclosed area and all waste shall be disposed of immediately.
- b. No overnight boarding shall be permitted.
- c. Soundproofing shall be required and the noise outside the *building* shall not exceed that of average daily traffic measured at the *lot* line.
- d. No malodor shall be perceptible at the boundary of the premises.
- e. All waiting rooms and patient *areas* shall not be visible from the public right-of-way.
- f. A minimum of ten percent of the *floor area* of the establishment shall provide retail sales located at the front of the establishment.
- g. Grooming shall be permitted as an ancillary *use* to a veterinary service.
- h. There shall be a minimum distance separation of 400 feet between veterinary offices.
- i. A violation of any of the conditions described in subsection 90-41(d)(25)a.— h., or a violation of the standards of review in section 90-23.2 or a violation of additional conditions required by the Town Commission, shall result in the rescinding of the *conditional use* permit after the *conditional use* permit holder has been notified of these deficiencies. An

administrative decision to revoke the *conditional use* permit may be appealed to the Town Manager within 30 days of the date of the revocation. The Town Manager shall schedule an informal hearing with the applicant and the Town Manager's decision shall be rendered in writing within ten days of the meeting. Any decision made by the Town Manager regarding *conditional use* permits may be appealed to the Town Commission.

(26) Provided that no animals including without limitation dogs, cats, ferrets, rabbits, turtles, gerbils, hamsters, cows, horses, sheep, and other domestic animals or livestock shall be sold on the premises.

(27) *Electric vehicle charging stations* shall be limited to personal use and shall not be used for purposes of wholesale or retail sales. All components of the *Electric vehicle charging station* shall be *wall* mounted and completely concealed from view. The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

(28) *Electric vehicle charging stations* shall contain a retraction device, coiled cord, or a place to hang cords and connectors above the ground surface. The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

(29) *Electric vehicle charging stations* shall be limited to *Electric vehicle charging level 2* or *level 3 Electric vehicle charging stations* only and contain a retraction device, coiled cord, or a place to hang cords and connectors above the ground surface. The station shall include the following: (a) voltage and amperage levels; (b) usage fees, if any; (c) safety information; and (d) contact information to report issues relating to the operation of the equipment. The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

(30) The following *uses* shall be separated from similar existing *uses*, or similar approved but unbuilt *uses*, within the Town limits, by the minimum distances specified below, measured from front door to front door:

- a. For purposes of this calculation, front door shall mean the primary public access to the *business* which shall not include any *alley*, rear or secondary access point.
- b. Drug stores: eight hundred fifty (850) feet.

(31) Pet grooming may be permitted as accessory to pet supplies provided:

- a. Animals shall be walked on the premises in an enclosed *area* and all waste shall be disposed of immediately.
- b. No overnight boarding shall be permitted.
- c. Soundproofing shall be required and the noise outside the *building* shall not exceed that of average daily traffic measured at the *lot* line.

- d. No malodor shall be perceptible at the boundary of the premises.
- e. Pet sales or pet adoption services are prohibited.
- f. There shall be a minimum distance separation of 850 feet between pet supplies stores offering pet grooming and 400 feet between a pet supplies store offering pet grooming services and a veterinary office offering pet grooming services.

(32) *Hotels* and Suite *Hotels* shall be permitted as a *conditional use* only as adaptive re-use of historically designated *buildings* at a *density* of up to 108 units per *acre* of *net lot area* provided a certificate of appropriateness is obtained pursuant to **Section 90-275.3** of this Code and subject to compliance with all other requirements of this code.

(Ord. No. 1504, § 2(Exh. A), 5-13-08; Ord. No. 1514, § 2, 4-14-09; Ord. No. 1551, § 2, 3-13-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1561, § 2, 10-12-10; Ord. No. 1563, § 2, 11-9-10; Ord. No. 1566, § 2, 1-18-11; Ord. No. 1572, § 2, 4-12-11; Ord. No. 1601, § 2, 4-9-13; Ord. No. 1608, § 2, 10-8-13; Ord. No. 1611, § 1, 2-11-14; Ord. No. 1617, § 2, 3-11-14; Ord. No. 17-1666, § 3, 12-12-17; Ord. No. 19-1705, § 2, 11-12-19)

Section 90-148. Prohibited uses.

Medical marijuana dispensaries shall not be permitted within the Town boundaries pursuant to Section 381.986(11)(b)1, Florida Statutes (2019).

Section 90-149. 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 vehicle related to the home office shall be permitted upon the premises. Such vehicle must be 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 subsection (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.

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.

(Ord. No. 1558, § 2(Exh. A), 8-10-10)

Sec. 90-150. Reserved.

Sec. 90-151. Short term rental of single-family dwellings, duplex dwellings, multi-family dwellings and townhomes.

(a) Definitions and registration:

(1) Intent. The Town of Surfside recognizes that the unregulated rental of *single-family, duplex, multi-family, and townhome dwelling units* by *seasonal residents* uniquely impacts certain neighborhoods within the Town. Therefore, it is necessary and in the interest of the public health, *safety*, and welfare to the monitor and provide reasonable means for citizens of the Town to mitigate impacts created by such rental of such *dwelling units* within the Town as set forth in this article.

(2) Definitions. For the purpose of this section, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

a. *Owner* shall mean the *person* whom is vested ownership, dominion, or title of property.

b. *Responsible party* shall mean the *owner* or the *person* designated by the *owner* of the property to be called upon to answer for the maintenance of the property and the conduct and acts of *seasonal residents* of *single-family, duplex, multi-family, and/or townhome dwelling units*.

c. *Seasonal resident* shall mean guests, tourists, lessees, vacationers, or others who lease a *single-family, duplex, multi-family, and townhouse dwelling unit* for valuable consideration for a period of time between one day to no more than six months.

d. *Short-term rental* shall mean any occupancy of a *single family, duplex, multi-family, and townhouse dwelling unit* for a period of time between one day to no more than six months provided however the terms of this short term rental ordinance shall not apply to film and print productions and *use* of the aforementioned premises for those purposes.

(3) Registration required. It shall be unlawful for any *person* to allow another *person* to occupy any *single-family, duplex, multi-family, and townhouse dwelling unit* as a *seasonal resident* within the Town of

Surfside, or offer such rental services within the Town, unless the *person* has been registered with the Town in accordance with provisions of this section. A registration is required for each rental period for which the *single-family, duplex, multi-family, and/or townhouse dwelling unit* is rented. No more than three (3) registrations shall be issued within a 12-month period. Every *person* required to procure a registration under this Section shall submit a formal application to the Town Manager or designee.

(4) Application for registration. Applications for registration shall set forth and/or include at a minimum:

- a. Address, *lot*, block and subdivision name of *single-family, duplex, multi-family, and townhouse dwelling unit* offered for rental;
- b. Name, address, and phone number of *owner* of said *single-family, duplex, multi-family, and/or townhouse dwelling unit*;
- c. Name, address, and emergency contact phone number of *responsible party* for said *single-family, duplex, multi-family, and townhouse dwelling unit*, which shall be a 24-hour, seven days a week contact number;
- d. That the phone number for the *responsible party* will be answered 24 hours a day, seven days a week by a party with authority to address or coordinate problems associated with the *single-family, duplex, multi-family, and townhouse dwelling unit*;
- e. Acknowledgements by *owner* of the following:
 - i. That all vehicles must be parked in the driveway of the *single-family, duplex, multi-family, and townhouse dwelling unit* and clear of all grassy areas and sidewalk sections pursuant to Town of Surfside Code of Ordinances;
 - ii. That it shall be unlawful to allow or make any noise or sound which exceed the limits set forth in the Town's Noise Ordinance;
 - iii. That no garbage container shall be located at the curb for pickup before 12:00 pm of the day prior to pickup, and garbage container shall be removed before midnight of the day of pickup;
 - iv. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any *structure* or conveyance of a *single-family, duplex, multi-family, and townhouse dwelling*

unit, or, having been authorized, licensed, or invited is warned by the *owner* or lessee, to depart the unit and refuses to do so, commits the offense of trespass in a *structure* or conveyance;

f. Proof of *owner's* current ownership of the *single-family, duplex, multi-family, and townhouse dwelling unit*.

g. Issuance or refusal of registration. The Town Manager or his designee shall issue a registration to the applicant upon proof of the following:

i. The *owner* and/or *responsible party* completes the Town of Surfside registration application form; and

ii. The registration fee has been paid to the Town; and

iii. Incomplete registration applications are unacceptable and requested registration shall not issue.

h. Registration not transferable. No registration issued under this article shall be transferred or assigned or used by any *person* other than the one to whom it is issued, or at any location other than the one for which it is issued.

i. Expiration of registration. All registration issued under the provisions of this article shall be valid for the rental period requested in the application.

j. Complaints. Whenever a violation of this article occurs, or is alleged to have occurred, any *person* may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Town Manager or his designee.

(b) Fees for registration. The Town is authorized and shall charge a fee for registration to compensate for administrative expenses. The fees for registration shall be set forth in a resolution adopted by the Commission of the Town of Surfside, and may be amended from time to time.

(c) Resort tax and enforcement.

(1) Payment of resort tax required. *Owners* are subject to payment of the resort taxes as establish by the laws of the Town of Surfside.

(2) Violations of this section:

a. Are subject to the fines as set forth in the schedule of fines adopted by resolution.

b. In addition to or in lieu of the foregoing, the Town may seek injunctive relief.

c. Any code compliance officer may issue notices for violations of this ordinance, with enforcement of section 90-151 and alternative enforcement of section 1-8 as provided in Chapter 1 of this Code. Violations shall be issued to the *owner*, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record *owner* of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the *owner* at its mailing address in the property appraiser's records, in the event the notice is returned as unclaimed or refused, notice may be provided by posting on the property, and a courtesy notice by first class mail to the contact *person* identified in subsection (4)c. above.

(d) Previously existing short term rentals.

(1) Only those properties that were previously recognized as eligible for short term rental under the terms of Ordinance Nos. 1573, 1600, or 1620 may be made available for short term rental, subject to accounting for and payment of all sums due in connection with resort taxes and occupational licenses, maintaining all certificates of occupancy and/or inspections current, and maintaining appropriate registration with the State of Florida as a *Transient Apartment*, *Resort Dwelling*, or *Resort Condominium* pursuant to Chapter 509, Florida Statutes, as of November 10, 2011.

[Ord. No. 1573, § 2, 5-10-11; Ord. No. 1600, § 2, 2-12-13; Ord. No. 1620, § 2, 6-10-14]

Sec. 90-152 through 90-156. Reserved.

Sec. 90-157. District regulations tables.

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 I

	Minimum Lot Requirements ¹		Minimum Yard Requirements ¹						
District	Lot Area per Dwelling unit in Square Feet	Lot Width in Feet	Height ⁴	Depth Front Yard in Feet	Interior in Feet	Corner in Feet	Depth Rear Yard in Feet	Minimum Floor area	Maximum Lot Coverage
H30A – Single-family residential	8,000	50	30	20	5 min; 7.5 average	10	20	2,500	First Flr. – 40%
H30B – Single-family residential	5,600	50	30	20	5 min; 7.5 average	10	20	1,800	First Flr. – 40%
H30C Residential									
<i>Single-family</i>	5,000	50	30	20	5	10	20	1,800	--
<i>Duplex</i>	2,500	50	30	20	5	10	20	950	--
<i>Multifamily</i>	2,000	75	30	20	7	10	10	950	--
H40 District									
<i>Single-family</i>	5,000	50	30	20	5	10	10	1,800	--
<i>Duplex</i>	2,500	50	30	20	5	10	10	950	--
<i>Multifamily</i> ³	750	75 ²	40	20	7	10	10	See Table II ³	--
<i>Hotel</i> ³	400	100 ²	40	20	7	10	20	See Table II ³	--
<i>Townhouse</i> (more than 2 units)	550	150 ²	30	20	5	10	10		First Story 60%
									Second story 55%
									Third story 40%
									--
H120 District³									

	Minimum Lot Requirements ¹		Minimum Yard Requirements ¹						
District	Lot Area per Dwelling unit in Square Feet	Lot Width in Feet	Height ⁴	Depth Front Yard in Feet	Interior in Feet	Corner in Feet	Depth Rear Yard in Feet	Minimum Floor area	Maximum Lot Coverage
<i>Multifamily</i>	400	100	120	40	20%	20%	30	See Table II ³	--
<i>Hotel</i>	--	150	120	40	20%	20%	30	See Table II ³	--
SDB40 District	No dwelling units permitted	No minimum	40	None required	None required	None required	None required	--	--

A dash (-) indicates no applicable *regulation*.

1. Except where modified by *district*-specific regulation in sections 90-158 through 90-163.
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. The number of efficiencies in any *multifamily* building shall not exceed five 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.

TABLE II. MINIMUM FLOOR AREA FOR APARTMENTS, AND HOTEL/SUITE-HOTEL ROOMS (where existing or permitted)

Residential <i>Apartment</i> s		
	Efficiency	600 square feet
	One-bedroom <i>Apartment</i>	800 square feet
	Two-bedroom <i>Apartment</i>	1,000 square feet

	Three-bedroom or more <i>Apartment</i>	1,200 square feet
	Minimum average unit size per building	1,000 square feet
	<i>Hotels</i> , each room	350 square feet
	<i>Suite-hotels</i> , for each room	525 square feet
	<i>Suite-hotels</i> rooms with cooking facilities	800 square feet

4. Height is measured from the crown of the road to the highest structural part of a *flat roof* or the top of tie beam or truss for a sloped roof, except as set forth in section 90-161 for the H120 district only.

Sec. 90-158. H30A and H30B.

- A. Generally. See Section 90-157 for general requirements.
- B. Minimum Lot Area and Lot Width. An H30A *lot* shall have a minimum lot width of 50 feet and minimum lot area of 8,000 square feet. An H30B lot shall have a minimum *lot width* of 50 feet and minimum *lot area* of 5,600 square feet.
- C. Lot Coverage. *Lot coverage* is limited to a maximum forty percent (40%) of the lot; provided however that the following exemptions shall not be included in determining the lot coverage:
 - a. Uncovered steps and exterior balconies; and
 - b. Uncovered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides; and
 - c. Covered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides.

In no instance may the total area of all exemptions permitted by (a) through (c) listed above exceed 6% of the Lot area.

- D. Floor Area. The maximum *floor area* shall be limited to 68% of the *lot area*. The *floor area* of the second floor is limited to a maximum of 32% of the *lot area* or 80% of the first floor, whichever is less.
- E. Height. The maximum height is 30 feet. 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. *Rooftop photovoltaic systems* up to a height of five feet above the roofline and parapets not exceeding 18" above the roofline are exempt from the percentage limitation in this subsection.
- F. Setbacks.
 - a. Main Building. Required *setbacks* are as follows:

- i. Front and Rear: 20 feet minimum, except that for *lots* in excess of 112.5 feet in *depth*, the combined *depth* of front and rear yards shall be a minimum of thirty-six (36) percent of the *lot's* total *depth*.
 - ii. *Secondary frontage* (side street or water body): 10 feet
 - iii. Interior Side: 5 feet minimum, or for *lots* in excess of 50 feet in width, twelve percent of the total *width* of such *lot*. In addition, the *main building* shall maintain an additional average *setback* of 2.5 feet over and above the applicable minimum *side setback* calculated as follows:
 1. Multiply the required average *setback* by the *height of the building*.
 2. Multiply the resulting figure by the *depth* of the allowable *building* on that side (lineal feet between minimum *front* and *rear setback*) to arrive at the *aggregate* volume of average *side setback*.
 3. The *aggregate* volume of average *side setback* must be applied in any one or multiple *areas* throughout the *height* and *depth of the building* (further reducing the *building* envelope created by the minimum required *side setbacks*) to reduce the floor width (i.e. parallel to the *lot width*) and/or *depth* (i.e. perpendicular to the *lot width*), at the discretion of the design professional. Average *setback* may be applied at any point along a floor, mixed and matched among floors, and/or joined with *setbacks* taken from the opposite side elevation. Covered exterior *areas* open on two or more sides can be used to meet average *setback* requirements, but must at all times maintain the minimum *side setback*.
 - iv. For a *building* site where redevelopment preserves 80% or more of the constructed *floor area* of an existing *single-family* home, the minimum *setback* shall be 5 feet and the average *side setback* shall be 7.5 feet irrespective of the *width of the lot*.
 - v. In the H30A district, the *main building* shall maintain a *rear yard* of at least 25 feet from the seawall on Point Lake, north canal, or south canal, or at least 50 feet from the seawall on any other body of water.
 - vi. *Lots* improved with libraries, churches and synagogues, recreational centers or other public and semipublic *buildings* shall maintain an *interior side setback* of at least 15 feet.
- b. Projections and Encroachments into Required Setbacks. Except as otherwise specified in this sub-section, every part of a required *yard* shall be open to the sky.
- i. Eaves of sloped roofs may project up to 24 inches into the *side yard setback*. All other ornamental or screening features in the H30A and H30B *districts*, including cornices, sills, frames, and fins, may project no more than 8 inches into any required *yard*.
 - ii. Moveable *awnings* may be placed over doors or windows and may project not more than three feet into any required *yard*.

- iii. 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 *duplex* residence and is not visible from any *street* or waterway. All equipment shall be screened by a visual and sound enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above), matches closely to its immediate surroundings in texture, color, and appearance, and reduces operating noise to no more than 55 dBA when measured from any property line. The enclosure shall not exceed six feet in height above *grade*.
- iv. 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.
- c. Accessory Structures.
 - i. *Accessory buildings* which are not a part of the *main building*, even if connected by an open breezeway, may be constructed in a *rear yard* provided such *accessory building* does not exceed 12 feet in height and occupies no more than thirty percent (30%) in H30A or twenty percent (20%) in H30B of the required *rear yard setback area* 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.
 - ii. *Accessory swimming pools*, open and unenclosed, or covered by a screen enclosure, may occupy a required *rear* or *side yard setback*, provided the *pool* and any enclosure 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.
 - iii. 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*.
 - iv. 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*.
 - v. A storage 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 Florida

Building Code for hurricane force wind resistance; and otherwise meet all applicable requirements of the Florida Building Code.

G. Pervious Area and Paving. At least 35% of the *lot area* shall be *pervious area* and remain unbuilt open space. *Front yards* 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 50 percent of the *front yard* shall be landscaped. 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 50 percent of the *side yard* shall be landscaped.

a. Curb cuts. 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.

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

ii. 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.

H. Rooftop Mechanical Equipment. Mechanical equipment shall be permitted on any roof in the H30A and H30B districts, subject to the following requirements:

1. Setback from roof perimeter. All equipment and enclosures shall be set back from the roof perimeter so that it is not visible from eye-level view from *grade* at a distance of 75 feet from any property line of the subject *lot*. This shall be demonstrated by line-of-sight drawings submitted as part of a zoning approval or design review package.

2. Screening. All equipment shall be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street. In either instance, neither equipment nor screening shall be visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject *lot*.

3. The footprint area of the equipment, as defined by the perimeter of the decorative and acoustic screen enclosure, shall not exceed 7.5% of the total area of the roof upon which it is placed.

4. Rooftop equipment and all screening elements shall not exceed six (6) feet above the roof slab for a *flat roof* or above the truss for a *pitched roof*.

5. Any rooftop mechanical equipment installed prior to the effective date of this ordinance shall meet the requirements of this section for any replacement of equipment.

Sec. 90-159. H30C.

- A. Generally. *Lots* shall be developed in accord with the H30A and H30B *regulations* in section 90-158, except as set forth below:
 - a. Where section 90-158 conflicts with *regulations* in section 90-157, section 90-157 shall control.
 - b. Lot Area. *Lot area* shall be unlimited subject to required *setbacks*.
 - c. Minimum Rear Setback. The minimum depth of a *rear yard* abutting Harding Avenue or Abbott Avenue shall be 20 feet.
 - d. Projections and Encroachments into Required Setbacks. Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required *yard* except on *lots* west of Harding Avenue. For *lots* west of Harding Avenue, eaves of sloped roofs may project up to 24 inches into the *side yard setback*, but all other ornamental or screening features, including cornices, sills, frames, and fins, may project no more than 8 inches into any required *yard*. Moveable *awnings* may be placed over doors or windows and may project not more than three feet into any required *yard*. 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.
 - e. Pervious Area and Paving for Single Family or Duplex. Where developed as *single-family* or *duplex*, regulations applicable to H30A and H30B for *pervious area*, paving, and curb cuts shall be applicable.
 - f. Building Frontage and Width on Harding Avenue. In order to preserve the existing and historical scale and character of the Harding Avenue corridor, including *lots* 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, *building walls* facing Harding Avenue 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 *buildings* facing the public right-of-way on the same *lot* shall be separated by at least 17 feet. The open *areas* created by such separation 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*. The separation area may include a one-story (15 feet maximum height) *breezeway* that is *setback* at least 15 feet from the *building wall* closest to the right-of way.
 - g. Rooftop Mechanical Equipment. Rooftop mechanical equipment spaces shall be set back from the perimeter of the roof a sufficient distance so as not to be visible from the property line of the subject *lot*, and screened by

an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject *lot*. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

Sec. 90-160. H40.

- A. Generally. See Section 90-157 for general requirements.
- B. Height. Spires, steeples, stair access ways, 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.
 - a. Provided the height limitation of 40 feet is complied with, an area located below the first habitable floor elevation, that is used primarily for *off-street parking spaces*, storage, or recreational amenities, which may include a small enclosed area for access to the *building* such as a lobby or vestibule, shall not be considered a story for the purpose of determining the number of stories of the *building*.
- C. Setbacks. The *setbacks* established in section 90-157 shall be modified as follows:
 - a. Alley. 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.
 - b. Parking on First Floor. When the first floor of a *building* in a H40 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, 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.
 - c. Through Lots. Except as otherwise provided in these regulations on *through lots*, the required *front yards* shall be provided on each *street*. In lieu of that stated in section 90-157, 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.

- d. Minimum Rear Setback. The minimum depth of a *rear yard* abutting Harding Avenue or Collins Avenue shall be 20 feet.
 - e. Projections and Encroachments into Required Setbacks. Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required *yard*. On *lots* with less than 75 feet of frontage developed in accordance with subsection D of this section, unenclosed balconies may extend into a required *front yard* not more than 2.5 feet. Moveable *awnings* may be placed over doors or windows and may project not more than three feet into any required *yard*. 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.
- D. Multifamily Development of Small Lots. In the H40 district, lots with less than 75 feet of frontage may be used for *multifamily* development as provided in this code subject to all of the following limitations and requirements:
- a. 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 measured from the crown of the road abutting the property.
 - b. *Front setback* shall be 25 feet, with other *setbacks* as stated in section 90-157, Table I, under H40, *multifamily*.
 - c. At least 60 percent of the *front setback* shall be *landscaped*, except as may be otherwise approved by the Town Commission.
 - d. Parking is absolutely prohibited in any portion of the *front yard area*, but is permitted in *side* and *rear yards*.
 - e. Unit size minimum *floor area* shall be:

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

- E. Building Frontage and Width on Harding Avenue and Collins Avenue. In order to preserve the existing and historical scale and character of the Harding Avenue and Collins Avenue corridors, including lots 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, *building walls* facing Harding or Collins Avenues 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 buildings facing the public right-of-way on the same lot shall be separated by at least 17 feet. The open *areas* created by such separation 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. The separation area may include a one-story (15 feet maximum height) breezeway that is *setback* at least 15 feet from the *building wall* closest to the right-of way.

- a. Notwithstanding the criteria normally applicable to regular variances, the Town Commission may approve variances from the requirements of this section for *structures* officially designated as Historic or as an *Architecturally Significant Building* based on findings that the variances are the minimal necessary to reasonably redevelop, modify, or renovate the property while preserving the historic or significant character of the *structure* and maintain the scale and character of the district.
- F. Accessory Structures. As permitted for H30A and H30B.
- G. Pervious Area and Paving for Single Family or Duplex. Where developed as *single family* or *duplex*, regulations applicable to H30A and H30B for *pervious area*, paving, and curb cuts shall be applicable.
- H. Rooftop Mechanical Equipment. As permitted for H30C.

Sec. 90-161. H120.

- A. Generally. See Section 90-157 for general requirements.
- B. Lot Area. Lot area in this district shall be measured from the front property line to the *ocean bulkhead line*.
- C. Height. Maximum height shall be measured from the current elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). In H120, the maximum *building height* to the highest structural part of a *flat roof* or the top of the tie beam or truss for a sloped roof shall not exceed +136.63 NAVD88 (or +138.2 NGVD29). Only those allowances specifically described in this section shall be permitted above the maximum height.
 - a. Rooftop facilities. Spires, steeples, stair access ways, antennas, cupolas, chimneys, *flagpoles*, ventilators, tanks, elevator equipment rooms and similar architectural features, mechanical equipment spaces, enclosures for *building* infrastructure and/or limited rooftop outdoor amenity spaces, may collectively occupy no more than 30% of the roof area in the aggregate. Enclosures for *building* infrastructure or mechanical equipment and any other non-habitable spaces shall not exceed 20 feet in height measured from the structural roof. A maximum 200 square feet of enclosed habitable space nor more than 10 feet in height measured from the structural roof may be provided for bathroom facilities serving a rooftop outdoor amenity space. *Structures* open on two or more sides such as trellises or pergolas shall be permitted within any outdoor amenity space provided they do not exceed 10 feet in height measured from the structural roof. All rooftops and elements shall be designed in such a way that said elements meet the spirit and intent of the *Design Guidelines*, do not present a cluttered or drab appearance, and are consistent with the overall aesthetics of the property, as determined by the Planning and Zoning Board as part of Design Review. Rooftop mechanical equipment spaces and limited rooftop outdoor amenity spaces shall be: (1) set back from the perimeter of the roof so that they are

not visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines; or (2) be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance; or (3) be set into the roof structure itself without changing the visible contour of the roof as seen from the street so that no equipment or screening is visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

D. Setbacks.

- a. For lots 100 feet or greater in width, each required *side setback* is 20% of the *lot width*. In addition, and in order to encourage variety and innovation in design, *buildings* shall be subject to an average *side setback* of an additional 5% applied to *side setbacks* (25% overall for each side). The required average *setback* for each side shall be calculated and applied to each side elevation overall, as follows:
 - a) Multiply the *lot width* by 5%.
 - b) Multiply that figure by the height in feet from the minimum first floor elevation established by the Florida Department of Environmental Protection as of the date of this ordinance (+16.63 NAVD or +18.2 NGVD) to the top of the structural roof.
 - c) Multiply the resulting figure by the *depth* of the allowable building on that side (lineal feet between *front setback* and *bulkhead line*) to arrive at the *aggregate volume of average setback*.
 - d) The *aggregate volume of average setback* must be applied in any one or multiple *areas* throughout the *height* and *depth of the building* (further reducing the *building* envelope created by the 20% required *setbacks*) to reduce the floor width (i.e. parallel to the *lot width*) and/or depth (i.e. perpendicular to the *lot width*), at the discretion of the design professional. Average *setback* may be applied at any point along a floor, mixed and matched among floors, and/or joined with *setbacks* taken from the opposite side elevation.
- b. In lieu of providing the above average *side setback*, the property owner may, at its election, alternatively provide a minimum interior *side setback* of 10 feet for the first 30 feet in height (from the minimum first floor elevation established by the Florida Department of Environmental Protection as of the date of this ordinance at +16.63 NAVD or +18.2 NGVD), with the width of each required interior *side yard* increased by one foot for every three feet of building *height* above 30 feet. For corner properties, a *building* shall be *set back* a minimum of 20 feet from a side or secondary street for its entire

height. The *setback* herein shall be required for any legal *nonconforming lot* less than 100 feet in width.

E. Projections and Encroachments into Required Setbacks.

a. Ornamental Features. Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required *yard*.

b. Balconies.

i. When *setbacks* provide a minimum interior *side setback* of 10 feet for the first 30 feet in height, with the width of each required interior *side yard* increased by one foot for every three feet of *building height* above 30 feet in the H120 district, open unenclosed balconies may extend into a required primary front or secondary (corner) not more than eight feet, and may extend into a required interior *side setback* not more than five feet. Open unenclosed balconies may extend from the rear of the building to a point 12 feet west of the *bulkhead line*.

ii. When average *setbacks* provide a 25% average *side setback* in the H120 district, open unenclosed balconies may extend into a required primary (front) *setback* not more than eight feet. Open unenclosed balconies may extend from the rear of the *building* to a point 12 feet west of the *bulkhead line*. Open unenclosed balconies may extend into a required secondary street (corner) or interior *side setback* as follows:

1. 50% of balcony length on any floor can project no more than 50% of *setback* or 10 feet, whichever is less; and
2. the remaining 50% of balcony length on any floor can project no more than 5 feet.
3. Notwithstanding the above, 75% of all balconies on any floor shall be located at least 15 feet from any secondary street (corner) or interior side property line.

c. Underground facilities. Underground facilities in an H120 district used primarily for *off-street parking* spaces and constructed through deep soil-mixing or other method that does not involve driving sheet piles may extend into the *side* and *rear yards* to the property lines, provided the top surface of such extensions is not higher than the ground level elevation. 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* as required in this code.

d. Entrance Feature. Provided a special exception is obtained in accordance with section 90-96, in the H120 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:

- i. The *structure* must be completely supported (cantilevered) from the main *structure*;

- ii. 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;
 - iii. The *structure* must not exceed 30 feet in width; and
 - iv. The *structure* must not extend more than 20 feet in the required *front yard*.
- F. *Building Frontage and Width on Collins Avenue*. In order to preserve the existing and historical scale and character of the Collins Avenue corridor and to foster compatible scale relationships with abutting districts, so as to assure adequate light, air and open space, the maximum *frontage* of any *building* on Collins Avenue (north to south) shall not exceed 150 feet. Adjacent *buildings* facing the public right-of-way on the same *lot* shall be separated by at least 40 feet. The open areas created by such separation 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. The separation *area* may include a one-story (15 feet maximum height) *breezeway* that is *set back* at least 15 feet from the *building wall* closest to the right-of way.
- G. *Accessory Structures*. *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*.

Sec. 90-162. SDB40.

- A. *Generally*. See Section 90-157 for general requirements.
- B. *Height*. Spires, steeples, stair access ways, 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. *Rooftop Mechanical Equipment*. Rooftop mechanical equipment spaces shall be *set back* from the perimeter of the roof a sufficient distance so as not to be visible from the property line of the subject *lot*, and screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject *lot*. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

Sec. 90-163. MU and CF.

The *lot area, lot coverage, height, setbacks, and floor area* for public facilities within the MU and CF districts shall be as approved by the Town Commission at a publicly noticed meeting.

Secs. 90-164 – 90-182. Reserved.

DRAFT

ARTICLE V. SUPPLEMENTARY REGULATIONS

DIVISION 1. GENERALLY

Sec. 90-183. 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:

- (a) All corner properties shall provide and maintain unobstructed corner clearance *areas* along both the *front* and *side lot* lines; and
- (b) All objects, *fences, walls, gateways, ornamental structures, signs, hedges, shrubbery*, and other fixtures, construction, and planting within any corner clearance *areas* shall provide unobstructed cross-visibility at a level between 30 inches and eight feet, with the exception of *tree* trunks that do not create a traffic hazard; and
- (c) The property *owner* shall be responsible for maintaining all *landscaping* within 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; and
- (e) Only *turf* as defined in section 90-85.2 of the Code shall be located within the public-right-of-way between the edge of any roadway or curb and the private property line; and
- (f) The placement of *mulch* within the public right-of-way is prohibited; and
- (g) The Town Manager or designee shall make the final determination regarding unobstructed corner clearance *areas*.
- (h) If any property *owner* fails to maintain clearances and conditions required by this section, the Town shall take action pursuant to chapter 15, article I, code enforcement provided that should a property *owner* fail to remedy the violation within the timeframe provided by the notice of violation or the violation creates an immediate threat to the operation of any utilities or the life safety and welfare, the Town may take action and assess costs pursuant to article III, property maintenance standards of chapter 14.

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

Sec. 90-184. Rooftop photovoltaic solar systems.

(1) Intent. The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by permitting the installation of alternative energy systems while maintaining and adapting to the existing character of the district, subject to conditional use approval.

(2) Conditional accessory equipment. *Rooftop photovoltaic solar systems* shall be conditional accessory equipment to conforming and *nonconforming buildings* and *structures* in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of *Rooftop photovoltaic solar systems* as accessory equipment to conforming and *nonconforming buildings*, including *buildings* containing *nonconforming uses*, provided *conditional use* approval is first obtained. *Rooftop photovoltaic systems* shall be evaluated for design review on the basis of the overall compatibility with neighboring *structures*, in terms of aesthetics, location, visibility, and integration with new and existing *structures* on the property. Design review approval shall not be denied on the basis of the appearance of the equipment used or limited in any manner that would unreasonably reduce the efficacy of the system. Said systems must be meet or exceed all applicable Florida Building Code requirements for high velocity wind zones.

(3) Height. The height of *Rooftop photovoltaic solar systems* shall not be greater than five feet above the roof.

(4) Tree removal. Any removal of *trees* shall require a *tree* removal permit from Miami-Dade County.

(5) Maintenance. The *Rooftop photovoltaic solar system* shall be properly maintained and be kept free from hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare.

(6) Fee Exemption. *Rooftop photovoltaic systems* shall be exempt from application and permit review fees.

Sec. 90-185. Fences, walls and hedges.

(1) Fences and Walls. A *fence* or ornamental *wall* that is a maximum of four (4) feet in height (measured from *grade*) and provides a maximum opacity of 50% for the entire portion above two feet height from *grade* is permitted in the *front*, *corner*, or *secondary frontage yard* of *corner lots*, subject to vision clearance requirements. The Planning and Zoning Board shall review the materials, color, and design of the *fence* or *wall* to ensure compliance with *Design Review Guidelines*, architectural integrity and cohesion with the home, and compatibility with neighboring. A *fence* or *wall* up to 100% opacity and up to six (6) feet in height as measured from *grade* shall be permitted in any *rear yard* or portion of the *side yard* that is to the rear of the front façade of the house. A *hedge* of at least four feet up to a maximum height of six feet from *grade* shall be maintained between the *fence* or *wall* and the *front* or *secondary frontage street*. 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.

(2) Hedges. *Hedges* are permitted within the *front yard* or *secondary frontage yard* of any H30A or H30B *lot* provided they do not exceed six (6) feet in height from *grade*. *Hedges* along interior side *lot* lines and rear *lot* lines may not exceed ten (10) feet in height from *grade*. *Hedges* shall consist of Florida Friendly species. *Hedges* may be higher if granted approval by the design review board, on a case-by-case basis.

(3) Gates. Gates are permitted in any *front*, *corner*, or *secondary frontage yard* of *corner lots* provided they do not exceed four (4) feet in height from *grade* and provide no more than 25% opacity. Gates located to the rear of the front façade of the house shall be permitted for access to the interior *side yard*. The Planning and Zoning Board shall review the materials, color, and design of the gate to ensure compliance with *Design Review Guidelines*, architectural integrity and cohesion with the home, and compatibility with neighboring.

(4) Construction fencing. Temporary construction *fences* are required by this ordinance unless otherwise determined by the Building Official. A construction *fence* permit shall be obtained from the Building Department prior to the *fence* being erected. Each *fence* constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.

a. Permit required. A permit application and a current survey of the site.

b. Permitted fence. Construction *fences* shall be designed in such a manner as to have all exposed materials finished, coated, covered or clad in or with materials such as paint, windscreens, canvases or similar materials, subject to the approval of the Town Manager or designee.

1. The permitted construction *fence* shall be installed immediately upon removal of the temporary demolition *fence*. At no time shall the parcel remain without a protective barrier

c. Any *person* or entity found to be in violation of this subsection shall be subject to fines as set forth in the schedule of fines adopted by resolution.

d. A temporary construction *fence* (as defined herein) shall be installed on the front, side, and rear property lines.

e. Permitted height. All construction *fences* shall be at least six feet high and no higher than eight feet.

f. Locked. The *fence* shall be kept locked when the property is unoccupied.

g. Prohibited fences.

1. The following *fences* are not permitted, except as otherwise provided in the Code herein below:

(a)Chain-link *fences*, unless:

1. Chain-link *fences* with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction *fence* for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the *building* and zoning departments.

(b) *Barbed-wire fences.*

(c) *Fences made of canvas material.*

(d) *Any fences that fail to meet the requirement of the Florida Building Code.*

h. *Setbacks from property line on Harding Ave and Collins Ave.* A temporary *fence* installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the Town Manager. The *setback area* between the temporary *fence* and the property line shall contain a continuous extensively *landscaped* buffer which must be maintained in good healthy condition by the property *owner*. No temporary construction permit shall be issued unless a *landscape* plan is approved by the Town for the buffer. failure to maintain the *landscaping* will result in the Town taking action to replace same and lien the property for the costs of *landscaping*.

i. *Expiration of permit.* A temporary construction *fence* permit issued under this chapter shall expire at the completion of construction at which time the temporary *fence* shall be removed in accordance with the terms of the Florida Building Code.

j. *Murals and graphics.* Graphics and murals on temporary construction *fencing* are prohibited unless approved by the Town Manager for aesthetic enhancement of the *fence* and advertisement of the project to be constructed.

k. *Fees.* The Town Manager or designee may impose fees as he/she may determine appropriate for the *use* of construction *fences* for advertisement purposes in accordance with the schedule promulgated by the Building Official.

l. *Access gates.* All temporary construction *fences* shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.

m. *Temporary construction signs.* Construction, erection, and maintenance of temporary construction *signs* shall be governed by Town of Surfside *Sign* Code.

n. *Appeals.* Any decision made by the Town Manager or designee regarding graphics, advertisement, and murals on a temporary construction *fence* may be appealed to the Town Commission.

o. *Enforcement and penalties.* The code compliance division and building departments shall be responsible for the enforcement of the provisions of this section. Any *person* or entity found to be in violation of this section shall be subject to fines as set forth in the schedule of fines adopted by resolution

(5) Under no circumstances is any *fence*, *wall* or *hedge* to be located on a *corner lot* in such a way as to conflict with visibility triangles, vision clearances, or fire codes, including concealment of fire hydrants.

(6) 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 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.

(7) *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 50 percent covered by boards on the side facing away from the property on which the *fence* is constructed.

(8) 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.

(9) The following *fencing* material shall be prohibited:

- a. Chain-link and other wire *fencing*, except as permitted herein.
- b. Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

(10) 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*.

(11) 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.

(Ord. No. 1520, § 1, 4-14-09; Ord. No. 1529, § 2, 7-15-09; Ord. No. 1549, § 2, 3-9-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1590, § 2, 8-15-12; Ord. No. 1593, § 2, 10-9-12; Ord. No. 1610, § 2, 12-10-13; Ord. No. 1620, § 2, 6-10-14; Ord. No. 18-1689 , § 2, 9-12-18; Ord. No. 18-1691 , § 2, 12-11-18)

Sec. 90-186. Marine structures.

- (1) Construction of a dock, pier, or mooring *structure* (each is a “marine *structure*”) for a waterfront lot may be permitted subject to the following:
- a. Lots with Water Frontage on Two Sides. For any *lot* that has water frontage on two or more sides, a marine *structure* shall be permitted only on the side fronting on the widest adjacent waterway.
 - b. Maximum Projection of Specific Lots on Point Lake. For the following *lots* with water frontage on Point Lake, a marine *structure* may be constructed to project into a waterway no more than the lesser of either
 - i. (1) 10% of the width of the *lot*’s frontage on the waterway, or (2) 10 feet;
 - ii. *Lots* 1-4, Block 23A, of Second Amended Plat of Normandy Beach (recorded in Plat Book 16, Page 44); and
 - iii. *Lots* 9-18, Block 27 of Second Amended Plat of Normandy Beach (recorded in Plat Book 16, Page 44), as amended by the Second Revised Plat of Blocks 26-27, Second Amended Plat of Normandy Beach (recorded Plat Book 41, Page 6)
 - c. Maximum Projection of Other Lots on Point Lake. For any other *lot* with water frontage on Point Lake, or North Canal or South Canal, a marine *structure* may be constructed to project into the waterway no more than the lesser of either (i) 10% of the width of the adjacent waterway, or (ii) 15 feet.
 - d. Maximum Projection of Lots on Biscayne Bay and Indian Creek. For any *lot* with water frontage on Biscayne Bay or Indian Creek, a marine *structure* may be constructed to project into the waterway no more than the lesser of either (i) 10% of the width of the adjacent waterway, or (ii) 35 feet.
 - e. Unobstructed Passage. No marine *structure* shall be permitted where the dock projection and moored vessel together would reduce the adjacent waterway to less than a 25 foot-wide channel at any point along the entire width of the *lot*’s water frontage, in order to ensure that the adjacent waterway allows for the free and safe navigability of typical waterborne vessels in the adjacent waterway.
 - f. Setbacks. Any marine *structure* shall be set back at least ten (10) feet from the waterward extension of any property line of the subject *lot*.
 - g. Determination of the “width of the waterway.” For the purpose of this section, the “width of the waterway” shall be the narrowest lineal distance from the waterward side of the seawall of the subject *lot* to the nearest land mass or seawall that is perpendicular to any portion of the subject *lot*’s water frontage.
 - h. Determination of “maximum projection.” The projection of a marine *structure* shall be measured from the waterward side of the seawall of the subject *lot*.

Notice. The *owner* of the subject *lot* shall provide courtesy notices of a *building* permit application for a marine *structure* to all *owners* within 300 feet of the *lot* by first class mail return receipt requested, and shall provide evidence of such mailing to the Town Planner. A *building* permit for the marine *structure* shall not be issued earlier than fifteen (15) calendar days from the date that proof of courtesy notices is submitted to the Town Planner.

Sec. 90-187. Carports and Car Canopies.

A *Carport* shall be treated as an accessory *structure* subject to all applicable rules and *regulations*. A *Car Canopy* may be constructed, if approved as a *conditional use* under the provisions of section 90-91, in a *front, side* or *rear yard setback* in the H30A, H30B, H30C, and H40 *districts*. Such *Car 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 *Car Canopy* is to be outside the *front yard setback*, 20 feet by 20 feet may be allowed. A *Car 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 *Car 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 *Car 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 *Car Canopy* shall not exceed ten feet, measured from the ground level to the uppermost point of the cover. A *front yard Car Canopy* shall be at least five feet from the side property line. A *Car 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 *Car Canopy* must be entirely concreted or asphalted. Side openings shall be at least six feet, three inches, in height.

- (1) Each applicant for a *conditional use* shall submit with his application samples of the actual materials which will cover the *Car Canopy* and a *plot* plan showing the location and dimensions of the *Car Canopy* in relation to the *lot* lines and existing *structures*.
- (2) The Planning and Zoning Board may 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 a *conditional use*.
- (3) Any *conditional use* 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 *Car 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 Florida Building Code, the following construction standards for canvas-covered *Car Canopy* are required and shall be complied with:

a. No *Car Canopy* 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 non-flammability. 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. 90-188. 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. A permit fee shall be required.

(3) Construction provisions; yard placement. All such antennae shall be constructed to withstand the minimum wind load required by and in accordance

with all applicable 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 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 H120, 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. 90-189. 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, seawall 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 90-186(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 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.

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*).

(e) All applications for *building* permits in the H30A and H120 *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. All applications seeking zoning or *building* approval of any kind from the Town that involve new construction or addition(s) that exceed(s) 50% of the replacement value of existing *structures* shall be required to improve the seawall on the property up to all current code requirements.

(f) 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. 90-190. Reserved.

Sec. 90-191. 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 Florida Building Code.

(6) 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.

(7) All lighting shall be controlled by photocell controls.

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

Sec. 90-192. Miscellaneous elevations for seawalls, and groins.

(a) The elevation of all *ocean bulkheads* or seawalls 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 at least plus five feet above mean low water.

(Code 1960, § 18-41)

Sec. 90-193. Aggregation of lots.

(1) For all *lots* aggregated in the H30C, H40 and H120 zoning *districts* after April 12, 2011, (the effective date of Ordinance No. 1572), the maximum permitted *density* shall be limited to 85 percent of the total gross *density* permitted by the Comprehensive Plan when *lots* are aggregated.

(2) Two or more *lots* of record shall be considered one undivided *parcel* for the purpose of *density* and/or intensity if a special exception is first obtained, and the owner records a *unity of title*, after review and approval by the Town Attorney for legal sufficiency, demonstrating single *ownership* of the two or more *parcels* or the *parcels* have been platted as one *lot*. Joinder in the *unity of title* must be effectuated 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. Irrespective of the *aggregation* of the *lots*, the underlying land *use* or zoning shall prevail as to the permitted *use* on each of the *lots*. In the event of *lot aggregation*, the exterior property lines of the undivided *parcel* shall be used in determining *setback* requirements, and any *setbacks* based on *lot width* or depth shall be calculated on the *lot width* or depth of the undivided *parcel*.

(3) Aggregated *lots* shall be contiguous properties but may be separated by a public right-of-way.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-194. Boat parking.

In the following section the term "boat" shall include every description of watercraft or airboat used or capable of being used as a means of transportation on water, including personal watercraft, but shall not include kayaks or canoes or similar non-motorized watercraft. No more than one boat, may be parked on any *lot* in the H30A or H30B *districts* subject to the following conditions:

- (a) Boats shall not be *used* for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (b) No boat, or boat trailer shall be parked within the required interior side *setback* and/or required rear *setback*, or project or encroach on any public right-of-way.
- (c) A boat trailer and personal watercraft may be parked in the *front*, *side*, or *rear yards*. If parked in the *side* or *rear yard*, the boat trailer and personal watercraft shall not be visible to the neighboring property. A *fence*, wail or *hedge*, consistent with the Code, shall be installed in order to limit visibility to the maximum extent possible.
- (d) When parked or stored in the front or *secondary frontage yard* the place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be at least five feet from the interior side or rear property line.

(e) The parking, storage or keeping of any boat or boat trailer shall not obstruct driveways or impede the ability of the abutting property *owner* to maintain the right-of-way clearance. The parking, storage or keeping of any boat or boat trailer shall not cause other vehicles to be parked in rights-of-way so as to create a hazard. The parking or storage of a boat or boat trailer shall not be in conflict with the provisions of 90-52.

(f) If covers are provided for the open part of all boats, the covers for any items must fit to the contours of the boat. The color of the cover should be complimentary to the exterior color of the boat. No tarps shall be used.

(g) Boats, boat trailers, and places of parking shall be kept in a clean, neat and presentable condition. Boats and boat trailers shall not be inoperable, wrecked, junked, partially dismantled or abandoned.

(h) No boat which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, shall be kept on any *lot* for more than 30 days, unless they are stored inside a totally enclosed *building*.

(i) It shall be unlawful to park a boat or boat trailer on any *lot*, unless such *lot* contains a residential *dwelling* and the boat belongs to the occupant of such *dwelling*, a member of his immediate *family*, a resident of the household residing on the property, or a bona fide guest or visitor thereof.

(j) No major repairs or overhaul work shall be made or performed on the premises.

(k) Boats and boat trailers stored on any *lot* in the H30A or H30B *districts* shall be secured or removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.

(Ord. No. 1532, § 2, 9-8-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1569, § 2, 3-8-11)

Sec. 90-195. Temporary storage of campers and house trailers.

The 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 H30A or H30B *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. 90-196 – 90-197. Reserved.

Sec. 90-198. 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.

Sec. 90-199. Awnings and canopies.

The following Design Criteria are applicable to all *multi-dwelling* and non-residential properties. All new and replacement *awnings* and canopies shall meet these requirements.

(a) Location/placement.

1. *Awnings* and canopies shall have consistent height and depth subject to the size of the *wall* opening which, the *awning* or *canopy* is affixed.
2. *Awnings* and canopies shall remain consistent with architectural details and proportions harmonious with the overall *building* design and historic context.
3. *Awnings* and canopies shall be consistent on multiple storefronts within a larger *building*.
4. After 25 feet in length, an *awning* or *canopy* shall have either a break of a minimum of six inches or articulation of the *awning* or *canopy*, except where otherwise authorized by the Planning and Zoning Board to achieve a more integrated design.
5. *Awnings* shall be attached to the *building* facades and shall not be supported by vertical elements within the right-of-way.
6. *Awnings* shall have a pedestrian scale and be placed so as to provide weather protection.
7. *Awnings* shall be an enhancement to the *building* facade and shall be proportional with and complimentary to nearby *buildings* and *awnings*.
8. *Awnings* shall be mounted in locations that respect the design of the *building* and do not obscure ornamental features over storefronts (i.e. rooflines, arches, materials, banding).
9. *Awnings* shall project a minimum of three feet and a maximum six feet over the sidewalk, not to exceed the width of the sidewalk.

(b) Appearance.

1. *Awnings* shall be fabric or metal. Plastic and vinyl *awnings* are prohibited, except for First *Grade* vinyl *awnings*, subject to design review approval by the Planning and Zoning Board.
2. *Awnings* shall be solid colors rather than patterned.
3. If an *awning* valance is proposed, it shall be straight rather than curved, except for special architectural elements to be compatible with historic *building* styles.

4. *Awning* colors shall enhance and complement the *building* and adjacent *awnings*, rather than overwhelm the *building* scheme. Colors shall not call more attention to the *awning* than the *building*.

5. Lighting associated with *awnings* and canopies shall be prohibited, except lighting approved by the Planning and Zoning Board which is attached underneath the *awning* and intended to provide pedestrian lighting

6. *Signage*, graphics and lettering shall be prohibited on canopies and *awnings*.

(c) Construction and maintenance.

1. *Awnings* shall be mold and UV-resistant.

2. The *awning* frame *structure* shall be finished to match the metal storefront system color or the *awning* fabric color. The *structure* shall also be compatible with the window system of the *building* in terms of placement and materials.

3. *Awnings* shall have between a 30 and 50 degree angle, taking into consideration the height of the storefront and wind load requirements.

4. *Awnings* shall not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the Town's property maintenance code shall apply.

5. Maintenance, repair, replacement, and/or removal. All *awnings* and canopies shall be maintained and kept in good order and repair. *Awnings* and canopies which are found, upon inspection, to be in disrepair shall be subject to removal and/or replacement in accordance with the commercial standards established in section 14-52 of the Code of Ordinances.

(d) Enforcement.

1. Code enforcement and/or the *building* department shall be responsible for the enforcement of these provisions. Any *person* or entity violating these provisions shall be subject to fines as set forth in the schedule of fines adopted by resolution and punishable as provided in section 1-8 and all other applicable sections of the Code of the Town of Surfside.

(Ord. No. 1572, § 2, 4-12-11; Ord. No. 1584, § 2, 1-17-12; Ord. No. 1620, § 2, 6-10-14; Ord. No. 18-1689, § 2, 9-12-18)

Sec. 90-200. Materials and finishes.

The following Design Criteria are applicable to all new construction of *multi-dwelling* and non-residential development.

a. The surface shall be stone, metal, glass block and accent wood, or other sustainable finishes. Materials vernacular or characteristic to other regions including

but not limited to flagstone and adobe shall be prohibited. The *use* of low-cost stucco should be minimized in favor of other materials.

b. Materials shall be true and genuine, rather than simulated. Multiple storefronts within a larger *building* shall have consistent material qualities and articulation.

c. Glass in H120 and H40 *buildings* shall be non-reflective or low-iron.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-201. Portable storage units.

1. There shall be no more than one portable storage unit allowed per *site*
2. The portable storage unit shall be no larger than 130 square feet in *area* and no higher than nine feet in height.
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.
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 30 consecutive days and portable storage units shall not be placed at any *one site* in excess of 60 days in any calendar year.
 - b. In H40 and H120 *districts*: Portable storage units shall not remain at a *site* in excess of 14 consecutive days, and portable storage units shall not be placed at any *one site* in excess of 60 days in any calendar year.
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.
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.
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.

8. An application is required prior to the placement of a portable storage unit at any *site*. The application shall be filed with the Town Manager or designee and shall include the following where applicable; the address and the *use* or occupancy of the *site*; the estimated delivery date and duration of placement; the name and contact information of the portable storage unit *owner*; additional information as may reasonably required by the Town Manager or designee.

(Ord. No. 1528, § 2, 7-15-09; Ord. No. 1558, § 2(Exh. A), 8-10-10)

Sec. 90-202. Accessory buildings and structures in the H30C, H40, SD-B40 and H120 districts.

Non-habitable *structures*, including but not limited to *cabanas*, pergolas, gazeboes and trellises shall have a maximum height of 12 feet.

Sec. 90-203. Service areas and mechanical equipment.

The following are applicable to all *multi-dwelling* and non-residential properties.

- a. Service bays, mechanical equipment, garbage and delivery *areas*, shall be fully enclosed, screened or located within the interior of the *building*. These *areas* shall not be visible from the right-of-way and shall not be visible from properties with adjacent residential or *hotel uses*.
- b. Central air conditioning shall be required for trash rooms.
- c. All mechanical equipment shall be architecturally screened.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-204. Underground and above-ground utilities.

The following are applicable to all *multi-dwelling* and non-residential properties.

- a. All utilities including telephone, cable, and electrical systems shall be installed underground.
- b. All exterior facilities, including but not limited to electrical *Raceways* and transformers, permitted above ground shall be fully concealed and screened.

Sec. 90-205. Architecture.

- (1) Elevation and facade articulation variations.
 - a. The architectural design of proposed *main buildings* shall create a unique elevation compared to the *main buildings* of the adjacent two *buildings* 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 of the following architectural features:

1. Length, width and *massing* of the *structure*;
2. Number of stories;
3. Facade materials;
4. Porches and other similar articulation of the front facade;
5. Number and location of doors and windows; and
6. Roof style and pitch

(2) In the H30C, H40 and H120 *districts*: when more than one *building* is provided, *buildings* shall be designed in such a way that they are not monotonous.

(3) All elevations for new *structures* and *multi-story* additions (additions greater than 15 feet in height) shall provide for a minimum of ten-percent *wall* openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades per *story*.

(4) All elevations for single *story* additions to existing *structures* shall result in a zero percent net loss of *wall* openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades.

(5) Roof colors, and the colors of any rooftop enclosures, shall meet a minimum solar reflectance of 40, and be composed of only the following materials:

- a. Clay tile; or
- b. White concrete tile; or
- c. Solid color cement tile which color is impregnated with the same color intensity throughout;
- d. Architecturally embellished metal; or
- e. Other Florida Building Code approved roof material(s) if granted design review approval by the Planning and Zoning Board.

(6) Garage facades. Attached garages located at the front of a *single family* home shall not exceed 50 percent of the overall length of the facade.

(7) 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 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*. When the installation of *landscaping* results in insufficient *off-street parking*, a *landscaped* planter shall be permitted in lieu of the required *landscaping*. 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 24 inches into the side or rear *setbacks*.

(8) 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*.

(9) Paint colors. *Structures* in the H30A and H30B zoning *districts* shall be permitted to be painted the four lightest colors for the *structure's* primary color on the color swatch on file in the *building* department. All other colors may be accent colors. A paint swatch shall be submitted to the *building* department for approval by the Town Manager or designee. The Planning and Zoning Board shall make a design determination in cases of uncertainty.

Sec. 90-206. Roof deck provisions.

(1) *Roof decks* shall be permitted in H40, H120, SD-B40 and MU zoning *districts*, where not improved with or adjacent to *single-family* residential, and limited to:

- a. A maximum of seventy (70) percent of the *aggregate* roof *area* of the floor directly below the roof deck;
- b. Shall not exceed the maximum roof height required by any abutting property's zoning designation;
- c. Shall be *setback* from the roofline at least ten feet on all sides to provide for minimal visibility of *roof decks* from any public way, except on properties designated SD-B40; and

(2) A *roof deck* shall not be permitted in the H30B district.

(3) A *roof deck* may be permitted in the H30A district with Planning and Zoning Board approval applying the *conditional use* standards, subject to the following requirements:

- a. All elements of the *roof deck*, including decking, railings, access stairs, hand-rails, screening, and shade *structures*, shall not exceed the maximum height of 30 feet from the crown of road;
- b. the usable *roof deck* shall be set back from all vertical extensions of the exterior *walls* of the floor underneath by at least 10 feet for any side walls of the *building*, and by at least 20 feet from the any front and rear walls of the *building*;
- c. A maximum of forty percent (40%) of the aggregate roof *area* of the floor directly below the rood deck; and

- d. Notice provided to *single family* neighbors as required for the Planning and Zoning Board shall include a copy of the plans.
- (4) A *roof deck* may be permitted in the H30C district with Planning and Zoning Board approval applying the *conditional use* standards, subject to the following requirements:
- a. All elements of the *roof deck*, including decking, railings, access stairs, hand-rails, screening, and shade *structures*, shall not exceed the maximum height of 30 feet from the crown of road;
 - b. Where the *roof deck* is on a first *story* roof not exceeding 20 feet in height from the crown of road, the *roof deck* shall be set back from all vertical extensions of the exterior *walls* of the floor underneath by at least 5 feet;
 - c. Where the *roof deck* (and any elements of the deck including decking, railings, access stairs, hand-rails, screening, and shade *structures*) is on a second *story* or a first *story* exceeding a roof height of 20 feet from the crown of road, the usable *roof deck* shall be set back from all vertical extensions of the exterior *walls* of the floor underneath by at least 10 feet for all sides; and
 - d. Notice provided to *single family* neighbors as required for the Planning and Zoning Board shall include a copy of the plans.
- (5) 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:
- a. How will the existing roofing system be protected or replaced to allow for the new *use*;
 - b. Structural support strategies for any increase in live loads and dead loads;
 - c. Compliance with applicable ADA requirements;
 - d. Location of plumbing and mechanical vent stacks, fans and other appurtenances;
 - e. Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;
 - f. Added occupancy and servicing restroom facilities; and
 - g. All other issues applicable in the Florida Building Code.
- (6) 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. 90-207. Sustainability.

All new construction, except *single family* or *duplex* construction, shall at minimum meet the standards for LEED Silver or its equivalent as determined by the Building Official.

Division 2. Signs.

Sec. 90-208. General and miscellaneous provisions.

(a) Scope: The provisions of this article 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 article. 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 article.

(b) Purpose: This article shall be known as the “Town of Surfside *Sign* Code.” The purpose of the code is to improve and advance the governmental purpose of 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.

(c) Substitution of non-commercial speech for commercial speech: Notwithstanding any provisions of this article to the contrary, to the extent that this article permits a *sign* containing commercial *copy*, it shall permit a *non-Commercial sign* to the same extent. The non-commercial 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 non-commercial, or from one non-commercial 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 article.

(d) Severability:

(1) Generally: If any part, division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article 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 article.

(2) Severability where less speech results: This article shall not be interpreted to limit the effect of subsection 90-208(d)(1), 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 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 means.

(3) Severability of provisions pertaining to prohibited signs: This division shall not be interpreted to limit the effect of subsection 90-208(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 90-215, "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 subsection 90-208(d)(1) above, or any other applicable severability provisions in the Code of Ordinances or any adopting ordinance.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-209. Definitions.

Words and terms not defined shall be interpreted in accord with the normal dictionary meaning and the customary usage of the word shall apply.

1. Area: The entire perimeter of a *sign* which encloses visually communicative *copy* such as letters, symbols, or logos, including the advertising surface and any framing, trim, or molding including the supporting *structure*.
2. Area of a ground-affixed letter or number sign: The square footage of a *Ground-affixed letter or number sign* shall be the aggregate surface *area* of all letters and numbers comprising the *sign*, based only on the principal surface of the *sign* and excluding any supporting *structure*. No fictional border or frame shall be imputed to the *area* size.
3. Awning sign: a *sign* that is a part of or attached to an *awning*, *canopy*, or other material or structural protective cover mounted over a door, entrance, window, or outdoor service *area*.
4. Bandit sign: A *sign* made of corrugated cardboard or similar material placed on wire support poles typically placed within right-of-ways or on private property.
5. Balloon sign: An inflatable *sign* which may be tethered.
6. Banner sign: A *sign* composed of lightweight, flexible material suspended between two points.

7. Billboard sign: A significantly large *sign* designed to dramatically attract the attention of the travelling public. Such *signs* are used to advertise or communicate goods or services typically not sold, generated, or provided on the *site* where the *sign* is located.
8. Business hours sign: A small *sign* indicating the hours during the day in which *business* is commonly conducted.
9. Cabinet sign: Any *sign*, the face of which is enclosed, bordered, or contained within a hinged box-like *structure*, frame, or other device.
10. Changeable copy: A *sign* or portion thereof on which letters, illustrations or symbols are replaced automatically or manually.
11. Commercial sign: A *sign* that identifies, advertises or otherwise attracts attention to a product or *business*.
12. Conforming sign: A *sign* that is legally installed in accordance with local ordinances.
13. Copy: The content of a *sign* including words, letters, numbers, figures, designs, logos, graphics, colors, or other symbolic representation incorporated into a *sign* for the purpose of attracting attention.
14. Entry feature: An architectural feature that identifies a residential or *hotel building*. Such architectural features may include columns, trellises, ornaments, metalwork, light fixtures and similar decorative elements to enhance the attractiveness of the *structure* and shall be consistent with the architecture of the primary *structure*. A *sign* shall be permitted and the size of that *sign* is limited to the *area* within a continuous perimeter enclosing the letters, symbols or logos.
15. Flag: A piece of fabric or bunting with a color or pattern that represents a government, or other non-commercial organization or idea.
16. Freestanding sign: A *sign* mounted on one or more supports including uprights, braces, columns, poles, posts, or other similar structural components which are placed on or into the ground, and not attached to a *building*.
17. Frontage, building: The length of the exterior *building wall* of a single premise oriented towards the public way or other properties it faces.
18. Frontage, street: The distance along which the *lot* line of a property adjoins a public *street*.
19. Fumigation warning sign: A *sign* indicating a lethal gas to exterminate pests is in *use* in a *building*, residence or premise. Warning *signs* are posted in plainly visible locations or the immediate vicinity of all entrances. Absolutely no people or pets may enter a *structure* with a posted warning *sign*.
20. Ground-affixed letter or number sign: A *sign* using letters and/or numbers in which each letter or number is affixed to the ground and which has no frame or border surrounding the letters or numbers.

21. Home business sign: A *sign* indicating a small *business* operating from the owner's home office or residence.

22. Individually-mounted letter sign: A *wall sign* using letter forms which are singularly affixed to the *sign* surface.

23. Illuminated: A *sign* which is lighted by either an internal electrical source, an external source separate from the *sign* itself, or back-lit.

24. Marquee: A roof-like *sign structure* commonly placed over the entrance to a *hotel* or theater often identifiable by a surrounding cache of intermittent or chasing lights.

25. Menu sign: A *sign* indicating food items or products served on the premises.

26. Monument sign: A free-standing *sign* generally having a low profile where the base of the *sign structure* is on the ground independent of the *building*, *wall* or *fence*, but does not include a pole *sign*.

27. Non-commercial sign: A *sign* that does not contain *copy* that advertises or promotes the availability of any merchandise, service, institution, residential area, entertainment, or activity. Such *sign* typically conveys an opinion, idea, or concept; or displays a civic, political, religious, seasonal or personal message.

28. Non-complying sign: Any unlawful *sign* that has not been erected in accordance with one or more standards or *regulations* of the Code.

29. Non-conforming sign: A *sign* or advertising *structure* which was lawfully erected and maintained prior to the enactment or amendment of the Code, which by its height, type, square foot area, location, use or structural support does not conform to the current standards or *regulations* in effect.

30. Off-premise sign: 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.

31. Open/closed sign: a small *sign* usually hung in a storefront window announcing a *place of business* is open or closed for *business*.

32. Permanent sign: A sign attached to a *building*, *structure*, or the ground that is entirely constructed out of durable materials designed to resist environmental loads, such as wind, and is fixed in place in such a manner as to inhibit easy removal or movement of the *sign*.

33. Pole-mounted sign: A free-standing *sign* mounted on a pole, post, or other vertical support.

34. Portable sign: Any *sign* mounted on or supported by a moveable frame or object of any kind including A-frame, sandwich board, *signs* attached to mannequins, *signs* mounted on tables or chairs or any other similar type of *signage* primarily designed to attract the attention of sidewalk traffic.

35. Projecting sign: Small pedestrian *sign* typically supported by a decorative chain or bracket that projects perpendicular from the face of the *building*, located above the storefront entry and oriented to the pedestrian.

36. Primary business sign: An establishment's principal *sign* which identifies the *business* to a passerby, communicating the most pertinent information.

37. Push-through sign: lettering or logo image cut through the *Sign face* and backing material which is mounted or inlaid in such a way that the *sign* looks as if the lettering or image has been pushed through, up, and out of the *sign*.

38. Raceway: a horizontal or vertical structural element on which *sign* letters are mounted that houses electrical conduit for illumination.

39. Real estate sign: 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."

40. Reverse channel sign: A *sign* comprised of individual letters or images that are independently mounted to a *wall* or other surface, with lights mounted behind the letters. The lights face the *wall* behind the letters illuminating the space around the letters rather than the letters themselves, creating a "reverse" lighting effect or "halo" effect.

41. 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.

42. Secondary business sign: A *sign* which communicates or identifies accessory information or *uses* other than the primary *business* or *use*.

43. Sign: Any *structure* and all parts composing the same, together with the frame, background or support, or any other object used for display or advertising purpose designed to attract the attention of the public.

44. Sign face: The portion of a *sign* on which *copy* is intended to be placed, exclusive of any supporting *structures*.

45. 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.

46. Temporary sign: A *sign* which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently.

47. Umbrella sign: A *sign* located on an umbrella commonly used as shelter for sidewalk tables.

48. Wall sign: A *sign* attached directly to an exterior *wall* of a *building* or dependent upon a *building* for support with the exposed face of the *sign* located in such a way as to be substantially parallel to such exterior *building wall* to which it is attached or supported by.

49. Window sign: Any *sign* that is visible from the exterior of a *building* through an open or closed window or door including *signs* attached to, suspended behind, placed on or near, or painted upon such window or door.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 1653, § 2, 10-13-16 ; Ord. No. 18-1668 , § 2, 1-9-18; Ord. No. 18-1675 , § 2, 2-13-18)]

Sec. 90-210. Sign permits.

(a) Sign permit required. Except as otherwise provided in this Code, no permanent shall be erected, constructed, posted, painted, altered, maintained, or relocated until a *sign* permit has been issued by the Town.

(b) Exempt signs. The following *signs* are allowed and exempt from permit requirements:

(1) National *flag*. A *flag* displayed in a window shall not exceed 20 percent of the window glass *area*.

(2) Banners erected by the Town including *street* pole banners.

(3) Non-*Illuminated* numerical address.

(4) *Open/closed sign* suspended behind a glass window or door provided the *sign* does not exceed one (1) square foot. The *sign* may be *Illuminated* by white internal illumination. *Illuminated signs* shall not be allowed to blink intermittently.

(5) Non-*Illuminated business hours sign* suspended behind a glass window or door provided the *sign* does not exceed one square foot.

(6) All *Temporary signs* as provided in section 90-214.

(7) *Menu sign* not exceeding two square feet displayed on the *wall*, window, or front door of a sit-down *Restaurant* within the SD-B40 *district* only.

(8) Plastic or metal *wall sign* not larger than 16 inches in width and five inches in height stating "Managed by _____" with the name of the individual, partnership or corporation that manages a *building*.

(9) *Fumigation warning sign* as required by the Department of Agriculture and Consumer Services.

(c) Application. 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 working 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 working days period. Upon resubmission of the application, staff shall have five additional working 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."

(d) Building 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.

(e) Electrical permit requirements. All *signs* that are electrically *illuminated* shall require a separate electrical permit and inspection.

(f) Local business tax receipt requirements. No local *business* tax receipt shall be issued for a new *business* until all *signs* associated with the former *business* have been removed.

(g) Permit review. All *signs*, unless otherwise exempt, shall be subject to review by the Planning and Zoning Board. In evaluating an application for a *sign* permit the board shall consider the following:

- (1) Whether or not the *sign* complies with the requirements of the code.
- (2) The quality of materials used and their relationship to the architecture of the *structure* and streetscape.
- (3) The overall concept associated with the proposed *sign*.
- (4) The detail of the design including text and graphics proposed.
- (5) The *illumination*, surface colors, finish, width, depth, and dimensions of the proposed *sign*.
- (6) The appropriateness of the *sign* to the spirit and intent of the Code.

(h) Failure to commence. Every *sign* permit issued by the Town shall become null and void if installation is not commenced within two years from the issue date

of such permit. If work authorized by such permit is suspended or abandoned for 180 calendar days any time after the work is commenced, a new permit must be obtained and approved by the Planning and Zoning Board. The fee will be the full amount required for a new permit for such work.

(i) Revocation. The Town may suspend or revoke, in writing, a permit issued under provisions of this Code, 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 15 calendar days after receipt of the written notice of revocation. The Town Commission shall hear the appeal within 30 calendar days after the date of receiving the written notice of appeal.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-211. Sign design and appearance.

- (a) *Signs* shall be professional in appearance.
- (b) *Signs* shall not be the dominant feature of a location and shall be scaled in accordance with the size of *Conforming signs* on adjacent and nearby properties.
- (c) *Signs* shall be well designed, unique, and integrated into the *building* façade so as not to detract from the architectural character of the *building* or the context of the surrounding streetscape.
- (d) *Sign* colors shall be complementary to or enhance the main color of the *building* façade. The *use* of established *business* colors or company logos or trademarks shall not be prohibited by this requirement.
- (e) *Signs* shall have a proportional and dimensional relationship between the *building*, text, graphics, and spacing.
- (f) *Sign copy* shall be simple and concise without excessive description of goods, services, products. Unless otherwise provided in this Code commercial *copy* shall be limited to the trade name or franchise name of the *business* or the primary product or service.
- (g) *Signs* shall be weather resistant and professionally constructed of high-quality, durable material in accordance with the Florida Building Code unless otherwise exempt.
- (h) 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.

(i) *Signs* shall be properly maintained and kept in proper working order. Any damaged or defective *Conforming signs* shall be removed and repaired within 90 calendar days. Damaged or defective *non-Conforming signs* shall be replaced with a *Conforming sign* that meets the requirements of this Code.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-212. Sign removal.

(a) *Permanent signs*. Upon the vacation of a premise, any *sign* associated with the previous *owner* or lessee including letters, numbers, logos, or any other visual communication associated with the vacated premise, shall be removed by the current *owner* or lessee within 30 days of the transfer of *ownership* or cessation of the previous *business* activity. Any visible holes shall be painted and filled. *Sign* structure may remain in place provided no identifying features of the previous *business* activity are visible and the *sign* structure is conforming per the requirements of the code.

(b) *Temporary signs*. Notwithstanding the time limitations set forth in Section 90-214, all outdoor *Temporary signs* shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-213. Permanent signs by district.

(a) *SD-B40 Zoning District*.

(1) *Content*. *Commercial signs* may only include the trade name, logo of the establishment, the nature of *business* or services rendered, or products sold on the premises. *Signs* may not include phone numbers or any reference to price.

(2) *Signage for upper floor tenants*. Each upper floor tenant shall be entitled to erect *Permanent signage*. The total square footage of all second floor *signage* shall not exceed 80 percent of the allowable *signage* square footage for the first floor *signage*, provided such *sign* meets all of the requirements of this subsection. In addition, each upper floor tenant shall be entitled to erect a single *sign*, not over one-hundred and 108 square inches in size, at the entrance or lobby of the *building* which provides egress to the upper floor.

(3) *Permitted signs*.

a. Projecting sign. *Projecting signs* on either the ground level or upper floors shall not be permitted for upper floor tenants. The maximum *sign area* for *Projecting signs* shall be eight square feet. The maximum lettering height shall be six inches unless otherwise integrated into a creative graphic design as approved by the Planning and Zoning Board. *Signs* shall not project more than five feet from any *main building wall* nor shall they be mounted above ground level tenant space. Encroachment into the right-of-way including sidewalks shall only be permitted where it can be demonstrated that there is a minimum vertical clearance of eight feet. Decorative bracket treatments are encouraged. *Projecting signs* shall not have electric lights, attached electric fixtures, or any manner of illumination.

b. Individually-mounted letter sign. The total *area* of all *Individually-mounted letter signs* shall be one square foot for each lineal foot of frontage of the *lot* or portion of the *lot* upon which the operating enterprise is located. For frontages less than 25 feet, a total *sign area* up to 25 square feet maximum shall be permitted. In no case shall the total *sign area* on any single operating enterprise exceed 150 square feet and no single *sign* shall exceed 45 square feet.

1. Types. The following types of *Individually-mounted letter signs* shall be permitted. No open face channel letters shall be permitted.

- i. Reverse channel letter.
- ii. Push-through letter.
- iii. Pan channel letter.
- iv. *Raceway* mounted letter. All exposed *Raceways* must be painted to match finish of *wall* face of the *building*.

2. Offset. *Signs* shall be off-set from the *wall* a minimum of one quarter inch to a maximum of two inches to permit rain water to flow down the *wall* face. This is not applicable to push-through or *Raceway* mounted lettering.

3. Illumination. All *signage*, lettering, logos or trademarks shall be required to be lit with white illumination from dusk to dawn. The illumination may be either internal illumination or external illumination, however, all *walls* below the *sign* shall be *Illuminated* with white *wall* wash LED lighting. It shall be located and directed solely at the *sign*. The light source shall not be visible from or cast into the right-of-way, or cause glare hazards to pedestrians, motorists, or adjacent properties. Lighting shall meet all applicable electrical codes. Intensities

of illumination shall be approved by the Building Official of the Town before issuance of a *sign* permit. A maximum of ten foot candles is permitted on any portion of a *sign* to be measured at the centerline of the adjacent sidewalk. A foot candle is defined as a unit of illuminance or light falling onto a surface. It stands for the light level on a surface one foot from a standard candle. One foot candle is equal to one lumen per square foot. A lumen is the basic measure of the quantity of light emitted by a source.

c. Permanent window *sign*. One primary *sign* may be applied to the inside or outside surface of any one glass window or door or displayed within 12 inches of a glass window or door. Such *signs* shall only be permitted on primary and side *street level frontages*. *Sign area* inclusive of logos or trademarks shall not exceed 20 percent of the *area* of the glass window or door in which the *sign* is displayed. Lettering shall not exceed eight inches in height. Acceptable materials include painted gold leaf or silver leaf, silk-screened, cut or polished metal, cut or frosted vinyl, and etched glass.

d. Television screen or similar. Television screens or similar electronic features may be located inside the storefront and project out to the sidewalk. These features shall be oriented towards the pedestrian and angled to be parallel to the sidewalk. Television screens or similar electronic features shall not exceed 20 percent of the *area* of the glass window if the feature is within 36 inches of the window. Television screens or similar electronic features located greater than 36 inches away from a window shall be permitted to exceed 20 percent of the *area* of the glass window. A maximum of ten foot candles of illumination shall be permitted from any television screens or similar electronic features to be measured at the centerline of the adjacent sidewalk.

e. Emergency address *sign*. Commercial *buildings* in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6 shall be required to provide an emergency address *sign* on the *alley* side of the *building* clearly identifying the address of the establishment. *Signage* may be *wall* mounted or posted on a rear door. *Sign* material shall consist of weatherproof reflective 3-inch or 4-inch address panels.

(b) H30C, H40, MU and H120 zoning *districts*.

(1) *Signage* on the outside of a *hotel*, *multifamily building*, or other similar *structure* which identifies a secondary *business* within the same *structure* is prohibited. Supplemental *signs* as permitted in this subsection shall be exempt from this requirement.

(2) Content. Commercial signs may only include the trade name, logo of the establishment, the nature of *business* or services rendered, or the products sold on the premises, except as otherwise provided in this Code. *Signs* may not include any reference to rates.

(3) Permitted signs.

a. Individually-mounted letter sign. Permitted as under the requirements of section 90-213(a)(3)b., except total *sign area* for *multi-family dwellings* within the H30C and H40 *districts* shall not exceed 75 square feet.

b. Monument sign. One *Monument sign* shall be permitted per *street frontage*. The maximum *sign area* shall not exceed 25 square feet. The maximum height shall not exceed five feet from the ground. *Signs* shall maintain a five-foot *setback* from all property lines and no portion shall be permitted to project within this five-foot *setback area*. *Signs* are required to be *landscaped* at the base. *Signs* may be internally or externally *illuminated*.

c. Supplemental sign. A *sign* for any establishment reading "Office," "Vacancy," "Private Beach," "Swimming pool," "Cabanas," "Coffee Shop," "Restaurant," or other such wording shall be considered a supplemental *sign*. Such *signs* shall be limited to three square feet in size; except in the H120 *district*, a *hotel* with a *Restaurant* may display an individual *sign* not to exceed five square feet in size containing the name of the *Restaurant*. The total combined square footage of individual supplemental *signs* shall not exceed eight square feet per *main building*. Such *signs* shall not be included in calculating the total maximum *sign area* for the *lot*. *Signs* shall be dignified in character and shall be restricted to the wording described above.

d. Parking sign. Parking *signs* not over four square feet in size may be erected at each exit or entrance of *parking lots* serving *buildings* in these zoning *districts*. Such *signs* may be *illuminated* by indirect lighting only. Lettering on these *signs* shall be limited to the name and address of the primary *business*, *multifamily building* or *hotel*, and the words "Entrance" or "Entrance Only," "Exit" or "Exit Only," "Parking," "Resident Parking," "Guest Parking," "Visitor Parking," "Private Parking," "Valet Parking," or "Customer Parking."

e. Emergency address sign. *Buildings* on the east side of Collins Avenue abutting the beach walking path shall be required to provide an emergency address *sign* identifying the name and address of the *building*. *Sign* shall be mounted on a free-standing post not to exceed 18 inches in height and 24 inches in width. Address letters and numbers shall not exceed two inches in height and name shall not exceed one inch in height. *Sign*

material shall be weatherproof and reflective so as to be clearly visible at night.

f. Electric vehicle charging station sign. A sign shall be posted at the *Electric vehicle charging station* stating “*Electric vehicle charging station.*” Signs shall be no greater than 24 inches wide by 18 inches high. Color and letter size specifications shall meet the Manual on Uniform Traffic Control Devices (MUTCD) requirements for sign designation (electric vehicle charging).

g. Ground-affixed letter or number sign. The total area of each *Ground-affixed letter or number sign* shall not exceed 20 square feet. The height of each sign shall not exceed five feet from the ground. The depth of each sign shall not exceed one foot. The total length of all such signs for each property shall not exceed 25 percent of the *frontage of a lot*. All *Ground-affixed letter or number signs* shall be set back two and one-half feet from the right-of-way.

(c) H30A and H30B Zoning Districts.

(1) Wall sign. Sign shall be attached to the main façade of the *building* and shall not exceed four square feet. Sign shall be installed and secured tightly to the *building*. No loose, non-secure attachments shall be allowed. Sign shall be rigid and weatherproof. Sign shall not be *illuminated* in any manner.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 1617, § 2, 3-11-14 ; Ord. No. 18-1668 , § 2, 1-9-18]

Sec. 90-214. Temporary signs.

(a) Real estate sign.

(1) SD-B40 district. One professionally lettered *Real estate sign* shall be permitted per *building frontage*. The maximum sign area shall be three square feet. The sign shall be mounted flat against the *building wall* or a minimum of 12 inches from a window, and shall not project above the eave line of the *building*.

(2) All other zoning districts. One professionally lettered *Real estate sign* shall be permitted per *street frontage*. The sign shall be wall mounted flat against the *building wall* or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign panel area shall be 18 inches by 24 inches. A maximum of two riders shall be permitted to attach above or below the main sign panel not to exceed six inches by 24 inches per rider for in-ground signs. The maximum sign height for in-ground signs including support frame shall

not exceed 42 inches from the ground to the top of the *sign*. Such *sign* shall be located outside of any sight visibility triangle. No portion of the *sign* shall extend across the property line.

(3) All *Real estate signs* shall be black and white and may include a trademarked logo or symbol.

(4) *Sign* shall be constructed of rigid, weather proof materials.

(5) *Sign* shall not be lighted or *Illuminated* in any manner.

(6) *Sign* shall be removed within seven days of a *lot, building, residence* or tenant space being leased, rented or sold.

(b) SD-B40 district. Three professionally lettered *Temporary signs*, excluding banners, shall be permitted per *building frontage*. The maximum *sign area* shall be three square feet per *sign*. The *sign* shall be mounted flat against the *building wall* or window, and shall not project above the eave line of the *building*.

(c) All other zoning districts. Three professionally lettered *Temporary signs* shall be permitted per *street frontage*. The *sign* shall be *wall* mounted flat against the *building wall* or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum *sign area* shall be three square feet per *sign*. *Sign face* shall be constructed of metal, plastic, wood, pressed wood or cardboard. The maximum *sign* height for in-ground *signs* including support frame shall not exceed 42 inches from the ground to the top of the *sign*. Such *sign* shall be located outside of any sight visibility triangle. No portion of the *sign* shall extend across the property line.

(d) [Erected signs; duration.] *Signs* shall not be erected more than 90 days prior to the event or occurrence and shall be removed no later than seven days after the event or occurrence.

(e) [Illumination; prohibited] *Signs* shall not be lighted or *Illuminated* in any manner.

(f) [Affixing sign to public rights-of-way or property; prohibited.] It shall be unlawful for any *person* to paste, glue, print, paint, affix, or attach by any means whatsoever to the surface of any public *street, right-of-way, easement, sidewalk, curb*, or to any property of any governmental body or public utility, any *Temporary sign*.

(g) Temporary signs placed on construction sites.

(1) One professionally-lettered *sign* shall be permitted per construction *site* or development subject to the issuance of a *building* permit for the

project. Such *sign* can be located on a *wall* or *fence*, or may be freestanding. The purpose of the *sign* is identification, and it may only identify the property, *owner* or agent, contract, or professional affiliations, property address and telephone numbers that are involved in the construction of improvements on the property. It may be constructed of metal, plastic, wood, or pressed wood and shall be kept in good repair. It may not be *illuminated*, or constructed of, painted, or treated with reflective material, and shall not contain *flags*, streamers, moveable items or like devices.

(2) In the H30A, H30B, H30C, and H40 zones, the maximum *area* of the *Sign face* shall be 18 inches by 24 inches. A maximum of two riders shall be permitted to attach above or below the main *sign* panel not to exceed six inches by 24 inches per rider for in-ground *signs*. The maximum height of the top of any element of the *sign* shall be six feet from *grade*, except where the *sign* is freestanding, in which case the maximum height shall be four feet from *grade*. A *Freestanding sign* must be located at least five feet from any property line. Where a *sign* is extended from an arm of support, such arm shall not exceed 16 inches.

(3) In the SD-B40 and H120 *districts*, the maximum *area* of the *Sign face* shall be 16 square feet. The maximum height of the top of any element of the *sign* height shall be eight feet from *grade*. A *Freestanding sign* must be located at least ten feet from any property line.

(4) Any such *sign* in any *district* shall be located outside of any sight visibility triangle. No portion of the *sign* shall extend across the property line.

(5) Such *sign* shall be removed immediately if the *building* permit for the project expires and construction has not commenced, and/or the permit is not renewed, and in all cases, no later than 72 hours after approval of the final inspection.

(h) Temporary window sign.

(1) Temporary *window signs* of any nature may be attached to glass window or doors, or mounted within 12 inches of a glass window or door.

(2) One *Temporary sign* shall be permitted per window.

(3) *Sign* may not be displayed more than 60 calendar days.

(4) The total *area* for *Temporary signs* shall not exceed 20 percent of the glass window they are facing unless otherwise provided in this subsection.

(5) *Signs* not in excess of six square inches may be attached to items displayed in display windows.

(i) *Temporary banner sign.*

(1) One professionally lettered temporary banner per *building frontage* or window in SD-B40 *district* is permitted.

(2) No *banner* shall exceed 32 square feet or five percent of the *building* façade that faces a public *street*, whichever is less.

(3) No *banner* shall be displayed for more than 30 consecutive calendar days within a six-month period.

(4) *Banner* shall not include *changeable copy*.

(5) *Banner* shall be made of durable materials such as canvas or vinyl. Non-durable material such as butcher-type paper is not permitted.

(6) *Banner* shall be securely attached to a supporting *structure* such as a *frontage wall* and capable of withstanding continuous wind without deflections or rotations that would cause deformation or damage.

(7) No banner shall be attached to a roof *structure* or above the eave line of the *building*.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 18-1675 , § 3, 2-13-18]

Sec. 90-215. Prohibited signs.

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 erected, constructed, or affixed in the Town except as otherwise permitted by Code:

(a) *Awning signs* or any *sign* printed on or attached to an *awning* or *canopy*.

(b) *Balloon signs* or other inflatable *signs*. Balloons may be permitted for a period not to exceed 24 hours for a temporary, non-commercial event such as a special occasion at a residence.

(c) *Banner signs* except as otherwise permitted by Code.

(d) *Billboards*.

(e) *Cabinet signs*.

- (f) *Changeable copy signs* or *Marquees*.
- (g) *Home business signs*.
- (h) *Flags* except as otherwise permitted by Code.
- (i) Lighted *signs* including strings of lights or lights framing a window
- (j) Mirror devices used as part of a *sign*.
- (k) *Off-premise signs* including *persons* wearing costumes and/or holding *Temporary signs* with commercial *copy*.
- (l) *Pole-mounted signs*.
- (m) *Portable signs* including A-frame, sandwich board, and moveable make-shift *signs* such as *signs* attached to a mannequin or mounted on a table or chair, or any other similar type of *Portable sign* or moveable object primarily designed for display purposes or to attract the attention of sidewalk traffic.
- (n) *Roof signs*.
- (o) *Signs* whose face is designed or constructed to be placed or transported on wheels.
- (p) Snipe or *bandit signs* except political *signs* and *Real estate signs*.
- (q) *Temporary signs* including posters and handbills except as otherwise permitted by Code.
- (r) *Umbrella signs*.
- (s) *Signs* containing wording which constitutes fraudulent or misleading advertising.
- (t) *Signs* containing obscene matter or wording which violates any federal, state or county statute, ordinance or rule.
- (u) *Signs* which have spinning devices, or strings of spinning devices, streamers, fluttering or other similar advertising devices.
- (v) *Signs* which emit smoke, visible vapors, particles, sound, or odors.
- (w) *Signs* not erected by a public authority which simulate, *copy*, or imply any official traffic *sign*, *signal* or police caution device.

- (x) *Signs* that display lights which are intermittent, blinking, moving, revolving, flashing or similar, except decorative or flashing illumination may be used between December 10 and January 5.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-216. Prohibited sign locations.

Except as otherwise permitted by Code no temporary, permanent, or exempt *sign* shall be permissible in the following locations:

- (a) *Signs* which prevent free ingress or egress from any door, window, or fire escape shall be prohibited.
- (b) *Signs* shall not be placed in any location which obstructs a motorist's vision of an intersection, traffic control signal, other vehicular traffic, or view of pedestrian or bicycle traffic.
- (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 except as otherwise permitted by Code. 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 accordance with section 90-213(a) and section 90-213. Such *signs* shall be limited to a maximum *area* of 25 square feet. These *signs* shall not be included in computing total *sign area* for a given operating enterprise.
- (d) 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 except as otherwise permitted by Code.
- (e) Except as otherwise authorized by the Town Manager or designee, no *sign* of any type shall be suspended across any public *street*, right-of-way, sidewalk, easement, *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*, right-of-way, easement, *alley*, waterway or other public property within the Town.
- (f) *Signs* placed without the express permission of the property *owner* or agent.

[Ord. No. 1624, § 2, 8-12-14)]

Sec. 90-217. Non-conforming signs.

(a) Sign amortization. All legally permitted *signs* which become non-conforming by the provisions of this Code shall be replaced with a *Conforming sign* within three years of the effective date of the ordinance from which this article derives.

(b) *Non-Conforming signs* shall be immediately replaced if any of the following conditions exist during the amortization period.

(1) There is additional development of a site.

(2) There is a change in *use*, occupancy, or tenant.

(3) There is a change in *sign copy* (with the exception of *window signs*).

(4) There is a structural *sign* alteration or repair.

(5) There is *sign* damage by any cause which exceeds 50 percent of the *sign* as determined by the Building Official.

(6) There is removal of a *sign*.

(c) Sign relocation. *Non-Conforming signs* shall not be permitted to be relocated.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-218. Non-complying signs.

Signs not in compliance with the code or those installed without a permit shall be considered non-complying. Such *signs* shall be removed or replaced immediately or shall otherwise be subject to code enforcement action, forfeiture to the public, confiscation or removal by the Town at the cost of the *owner*.

[Ord. No. 1624, § 2, 8-12-14]

Secs. 90-219 - 90-227. Reserved.

DIVISION 3. OFF-STREET PARKING

Sec. 90-228. 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 H30A or H30B *district*: Two spaces.
- (2) *Single-family dwelling* in all other *districts*: Two spaces.
- (3) *Duplex dwelling*: One and a half 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:	2.75 spaces

One visitor parking space for each 5 *dwelling units* shall also be provided.

- (5) *Hotel*: One space for each room.
- (6) *Suite-hotel* and suite-motel: One space for each room.
- (7) Church, synagogue, temple or other place of assembly: One space for every three *persons*, as calculated by said *building's* occupant load, as determined by the fire department and Building Official.
- (8) Grocery, fresh fruit or meat market: One space for each 250 square feet of gross *floor area*.

(9) Retail store or personal service establishment: One space for each 300 square feet of gross *floor area*.

(10) 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*.

(11) *Restaurants* or other establishments for the consumption of food and beverages on the premises: One space per four seats.

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

(13) 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. 90-229. 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 *dwelling*s or sleeping units, seating capacity or otherwise, said *building* or *use* shall comply with the all of the parking requirements herein.

(Code 1960, § 18-54)

Sec. 90-230. Restricted and prohibited parking.

(a) *Off-street parking spaces* in H30A, H30B, and H30C *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 90-194 and 90-195. 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 H30C, H40, and H120 *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 any *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. 90-231. Joint use and off-site facilities prohibited.

All parking spaces required herein shall be located on the same *lot* with the *building* or *use* served.

[Code 1960, § 18-56]

Sec. 90-232. Design standards for off-street parking.

(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 18 feet, exclusive of driveways, for the temporary storage of one 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.
- There shall be no tandem parking allowed.
- 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.

(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 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.

(c) Separation from walkways and streets.

- 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 foot planted strip.

- 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.

(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 90-191, 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) 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 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 the *landscape* requirements of this Code.

(i) Vehicular queuing. Offsite vehicular queuing shall not be permitted. Vehicular queuing, sufficient to accommodate surge traffic for arrival and departure of reasonably expected crowd sizes for the *uses* on a property, shall be required and accommodated on private property only. Adequacy of design for vehicular queuing shall be demonstrated by a traffic study subject to review and approval by Town staff. The Town Manager or his designee reserves the right to increase vehicular queuing requirements if deemed necessary based on individual circumstances and so as to cause the least practical interference with the *use* of adjacent property and with the movement of pedestrian or vehicular traffic.

- (j) Access to state roadways. Projects that have direct or immediate access or is within one-half block of Collins Avenue, Harding Avenue or 96th Street shall be subject to the review and approval by FDOT for compliance with FDOT standards. *Site plan* applications subject to this provision shall include a letter from FDOT as part of the *site plan* submittal.
- (k) On-site circulation. There shall be safe, adequate, logical and convenient arrangement of pedestrian walkways, bikeways, roadways, driveways, driving aisles and off street parking and *loading spaces* on-site. The Town Manager or his designee reserves the right to modify on-site circulation if deemed necessary based on individual circumstances and so as to cause the least practical interference with the *use* of adjacent property and with the movement of pedestrian or vehicular traffic.
- (l) Parking stall dimensions and Parking for the disabled. Parking stall and aisle dimensions shall conform to the Zoning Code of Miami-Dade County entitled "Minimum Parking Stall Dimensions," except as may otherwise be provided in this Code. Handicapped spaces shall be clearly designated for "Handicapped Only." 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. 90-233. Retention of Off-street Parking Trust Fund.

The Town of Surfside Parking Trust Fund established pursuant to Ordinance No. ____ and codified as Section 90-78(6) of the previous zoning ordinance is hereby retained to maintain funds currently within the trust fund and accept parking trust fee payments due to the trust fund in connection with approvals issued prior to the effective date of this ordinance. No development approved after the effective date of this ordinance may satisfy any parking requirement through payment into the trust fund.

Parking fees collected pursuant to approvals granted prior to the effective date of this ordinance shall be deposited into the parking trust fund. The fund shall be used to facilitate the provision of public *off-street parking* and infrastructure improvements related to parking including, but not limited to, the following activities:

- a. Acquire fee simple or other interests in land, and other real property for parking purposes;
- b. Construct, maintain, operate, lease, manage, purchase, or otherwise provide *off-street parking* facilities for public use including all labor and materials, cost of interest and financing, and all other such reasonable costs;
- c. Provide public information to enhance parking utilization including publicity campaigns, graphics and *signage*, and other informational devices;
- d. Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, with aim of reducing traffic congestion and gridlock;
- e. Provide accessibility to *off-street parking* facilities by suitable means such as public shuttle, tram or trolley service, and sustainable mobility solutions, including electrical vehicles and related infrastructure, together with related physical improvements such as bus shelters and right-of-way modifications; and
- f. Perform such other related activities as may be necessary to carry out the intent of this subsection.

The success and financial feasibility of providing any such shuttle, tram, bus, or trolley service, or any micro-mobility solutions, as provided herein, shall be subject to annual evaluation by the Town Commission. Funds deposited in the parking trust fund shall be made available to the Town Commission for the purposes set forth in this subsection, after review and recommendation by the Town Manager to the Town Commission and approval by the Town Commission.

Secs. 90-234 - 90-242. Reserved.

DIVISION 4.OFF-STREET LOADING

Sec. 90-243. 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.

Column 1	Column 2	Column 3
<i>Use or Use Category</i>	<i>Floor area as Defined in Definitions, in Square Feet</i>	<i>Loading spaces Required in All Districts</i>
<i>Business, commercial</i>	10,000-60,000 60,001 and over	One Two
<i>Office building</i>	10,000-60,000 60,001 and over	One Two
<i>Multiple-family building</i>	20,000-100,000 100,001-200,000 200,001 and over	One Two Three
<i>Hotel or motel</i>	10,000 - 60,000 60,001 and over	One Two

(Code 1960, § 18-58)

Sec. 90-244. 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. 90-245. Design standards for off-street loading.

- (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]

Secs. 90-246 — 90-251. Reserved.

Division 5. LANDSCAPE REQUIREMENTS.

Sec 90-252. General.

1. Purpose and intent. The general purposes of this section are as follows:
 - a. 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;
 - b. To create and enhance the aesthetic subtropical character and identity distinctiveness of the Town of Surfside;
 - c. 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,
 - d. To prevent the expansion of the listed pest plant species by prohibiting the use of noxious exotic plants which invade native plant communities;
 - e. To promote the *use* of more wind tolerant *trees* and proper horticultural planting methods in order to maintain a more sustainable *landscape*;
 - f. To promote Florida Friendly principles through the *use* of drought-tolerant *landscape* species, grouping of plant material by water requirements, right plant in the right place, appropriate *fertilization*, the *use* of *irrigation* systems that conserve the *use* of potable and non-potable water supplies, mulching and restrictions on the amount of lawn *areas*;
 - g. To utilize *landscape* material, specifically *street trees*, to visually define the hierarchy of roadways, and to provide shade and a visual edge along roadways;

- h. 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;
- i. 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* and where applicable, encourage appropriate wildlife habitat *areas*;
- j. 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;
- k. 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*;
- l. To improve the aesthetic appearance of the *Town* through the *use* of plant material, thereby protecting and increasing property values within the community;
- m. 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;
- n. To provide the physical benefits of using plant material as a function and integral part of the *Town* of Surfside's development;
- o. To provide minimum standards for *landscaping* new developments or for *redevelopment*;
- p. To promote water conservation and *vegetation* protection objectives by providing for:
- q. The preservation of existing plant communities pursuant to the requirements of the Miami-Dade's *Tree Preservation and Protection Ordinance*;
- r. The reestablishment of native plant communities;
- s. The *use* of *site-specific plant materials*; and
- t. The implementation of Florida Friendly principles as identified in Florida-Friendly *Landscaping-Guide to Plant Selection & Landscape Design* as amended, and as provided by law.

2. Definitions.

- (1) *Accessway* means private vehicular roadway intersecting a public right-of-way.
- (2) *Applicant* means the *owner* or the authorized agent of the subject property.
- (3) *Application* or *apply* means the actual physical deposition of *fertilizer* to *turf* or *landscape* plants.
- (4) *Applicator* means any *person* who applies *fertilizer* on *turf* and/or *landscape* plants.
- (5) *Approved test* means a soil test from the University of Florida, government, or other commercial licensed laboratory that regularly performs soil testing and recommendations.
- (6) *Automatic controller* means a mechanical or electronic device, capable of automated operation of valve stations to set the time, duration and frequency of a water *application*.
- (7) *Berm* means a linear earthen mound measured from the crown of the road or abutting finish floor elevation and has a maximum slope of three to one. The *berm* shall consist of clean fill composed of *planting soil*.
- (8) *Best management practices (BMP's)* means *turf* and *landscape* practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practical *site-specific* means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.
- (9) *Buffer, perimeter landscape* means 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.
- (10) *Canopy* means the upper portion of a *tree* consisting of limbs, branches and leaves.
- (11) *Clear trunk* means 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.
- (12) *Clear wood ("gray wood")* means 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.
- (13) *Code enforcement officer, official, or inspector* means any designated employee or agent of the *Town* of Surfside whose duty is to enforce codes and ordinances enacted by the *Town*.
- (14) *Commercial applicator* except as provided in F.S. § 482.1562(9), means any *person* who applies *fertilizer* for payment or other consideration to property not owned by the *person* or firm *applying* the *fertilizer* or the employer of the *applicators*.

- (15) *CPTED* means 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.
- (16) *Diameter breast height (DBH)* means the diameter of the *tree* trunk(s) measured at 4½ feet above grade.
- (17) *Disturbed land/ground* means any land where the original natural *vegetation* has been removed, displaced, overtaken or raked.
- (18) *Emitter primarily* refers to devices used in *micro irrigation* systems.
- (19) *Fertilizing or fertilization* means the act of *applying fertilizer* to *turf*, specialized *turf* or *landscape* plants.
- (20) *Fertilizer* means any substance or mixture of substances that contains one or more recognized plant nutrients and which promotes plant growth, controls soil acidity or alkalinity, provides other soil enrichment, or provides other corrective measures to the soil.
- (21) *Florida-friendly landscape* means the principles of Florida-friendly *landscaping* promulgated by the University of Florida which include planting the right plant species (whether native or non-native) in the right place, efficient watering, appropriate *fertilization*, *mulching*, attraction of wildlife, responsible management of *yard* pests, recycling *yard* waste, reduction of stormwater *runoff*, and waterfront protections. Additional components of *Florida-friendly landscape* include planning and design, soil analysis, the *uses* of solid waste compost, practical *use* of *turf*, and proper maintenance. As of the writing of this Code, further information on Florida Friendly *landscaping* is available at <https://ffl.ifas.ufl.edu>
- (22) *Functional landscaping* means 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*.
- (23) *Groundcover* means 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 feet in height.
- (24) *Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a *fertilizer*.
- (25) *Hedge* means a dense row of evenly spaced *shrubs* planted to form a continuous, unbroken visual screen.
- (26) *Hydrozone* means a distinct grouping of plants with similar water needs and climatic requirements.
- (27) *Impervious area* means an *area* covered by a material which does not permit infiltration or percolation of water directly into the ground.
- (28) *Infiltration rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

(29) *Irrigated landscape area* means all outdoor areas that require a permanent *irrigation* system.

(30) *Irrigation zone* means a grouping of sprinkler heads, soakers, bubblers, or *micro irrigation* emitters operated simultaneously by the control of one valve.

(31) *Institutional applicator* means any person, other than a private person applying fertilizer on their own residential property or a commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining *turf* and/or *landscape* plants. *Institutional applicators* shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or *business sites*, and any residential properties maintained in condominium and/or common ownership.

(32) *Irrigation* means the method of supplying plant materials with water other than by natural rainfall.

(33) *Landscape/landscaping* means:

- a. 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*.
- b. When used as a verb, this term shall mean the process of installing or planting materials commonly used in *landscaping* or environmental design.

(34) *Mulch* means 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.

(35) *Multi-trunk trees* means 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. ;b1; NOTE: The *Town* can require either multi-trunk or single trunk on certain *trees*.

(36) *Microclimate* means the climate of a specific *area* in the *landscape* that has substantially differing sun exposure, temperature, or wind, than surrounding *areas* or the *area* as a whole.

(37) *Micro irrigation (low volume)* means the *application* of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). *Micro irrigation* encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray *irrigation*, previously referred to as trickle *irrigation*, *low volume*, or low flow *irrigation* that deliver water directly to plant root zones with a high degree of efficiency, no *runoff*, and little to no evaporation.

(38) *Moisture sensing device* or *soil moisture sensor* means a device to indicate soil moisture in the root zone for the purpose of controlling an *irrigation* system based on the actual needs of the plant.

(39) *Native habitat* means 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.

(40) *Native plant community* means a natural association of plants dominated by one or more prominent *native plant species*, or a characteristic physical attribute as indicated by the *Town* of Surfside.

(41) *Native plant species* means *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.

(42) *Open space* means all *pervious areas* of the *site*.

(43) *Overall height* means 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.

(44) *Pervious areas* means any portion of the ground unobstructed by a non *landscape* planting surface or *synthetic turf* which prevents or slows down the natural seepage of water into the ground.

(45) *Planting soil/topsoil* means a medium composed of 50 percent sand and 50 percent muck. Palm *planting soils* shall compose of no more than 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 6.5 and 7.

(46) *Person* means any natural *person*, *business*, corporation, limited liability company, partnership, limited partnership, association, club, organization and/or any group of people acting as an organized entity.

(47) *Point of connection (POC)* means the location where an *irrigation* system is connected to a water supply.

(48) *Pop-up sprays* means spray heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.

(49) *Pressure tank* means a pressurized holding tank for *irrigation* water coming from wells to minimize cycling of the water pump.

(50) *Pump cycling* means *irrigation* pump coming on and shutting off frequently during operation of *irrigation* systems.

(51) *Prohibited application period* means the time period during which *application* of *fertilizer* is prohibited due to the potential of run-off to negatively impact the environment, including tropical storms and hurricane warnings, or for any portion of the *Town* where heavy rain has been forecasted.

(52) *Rain sensor device* means a low voltage electrical or mechanical component placed in the circuitry of an automatic *irrigation* system that is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.

(53) *Runoff* means water that is not absorbed by the soil or *landscape* and flows from the *area*.

(54) *Redevelopment* means any proposed expansion, addition, or facade 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 75 percent or greater of the existing *structure* is knocked down.

(55) *Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be considered saturated if standing water is present or the pressure of a *person* standing on the soil causes the release of free water.

(56) *Slow-release* means nitrogen in a form which delays its availability for vegetative uptake and *use* after *application*, or which extends its availability to the *vegetation* longer than a reference rapid or quick release product. It includes the terms “controlled release”, “timed release”, “slowly available”, and “water insoluble nitrogen.”

(57) *Shrub* means 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.

(58) *Soil moisture sensor*. See “*Moisture sensing device*”.

(59) *Soil texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.

(60) *Site-specific plant materials* means the *use* of plant species selected to minimize supplemental *irrigation*, *fertilization* and pest control.

(61) *Synthetic turf* means a dense and continuous surface of synthetic fibers mounted on a permeable backing and of sufficient *density* and green color to replicate the appearance of healthy, natural grass.

(62) *Town* means the department or division of the *Town* of Surfside government that the *Town* Manager has designated to enforce the *landscaping* requirements of this section.

(63) *Tree* means 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.

a. *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*.

b. *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 often feet at maturity.

c. *Tree abuse* means:

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 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 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.

(64) *Turf* means a mat layer of living *monocotyledonous* grass plants such as, but not limited to, Bahia, Bermuda, Centipede, Seaside Paspalum, St Augustine, and Zoysia and their cultivars. However, this definition does not include any type of synthetic/artificial *turf*.

(65) *Urban landscape* means *pervious areas* on residential, commercial, industrial, institutional, road rights-of-way or other nonagricultural lands that are planted with *turf* or *landscape* plants.

(66) *Vegetation* means angiosperms, gymnosperms, ferns and mosses.

(67) *Vehicular encroachment* means any protrusion of a motor vehicle outside of the boundaries of a *vehicular use area* into a *landscape area*.

(68) *Vehicular use area (VUA)* means 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.

(69) *Vine* means any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 2, 1-14-20]

Sec. 90-253. Landscape permit plans.

(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.

(2) All *landscape* plans shall meet the following requirements:

(a) Shall be of the same scale as the *site plan*, but no smaller than one inch equals 50 feet. Recommended scale to be one inch equals 20 feet.

(b) 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.

(c) Location and outline of existing *buildings* and *site* improvements to remain.

(d) Location, condition, names, sizes, *DBH*, and disposition of existing *trees*, *hedge*, and *site* improvements along any abutting properties within 25 feet of the property lines.

(e) 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.

(f) 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.

(g) 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.

(h) Location and labeling of existing and proposed *site* lighting. Additionally, provide a minimum of 15 feet separation from the required or existing shade *trees* and 7½ feet from palms and small *trees*.

(i) Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required 7½ feet clearance from all *landscape* material to the front and sides with four feet clearance from the rear.

(j) Location of existing and proposed easements, right of ways, drainage *structures*, overhead utility wires, underground utilities, above ground electrical elements, and transformers.

(k) Location and details including type, height, color, and additional embellishments of *walls*, *fences*, gates, and *signs*.

(l) All planting details and staking details, including but not limited to planting/staking specifications, general notes and *tree* protection barricade detail.

(m) Existing or proposed water bodies and retention *areas* indicating the required four to one slopes.

(n) Such other information that may be required to give a complete understanding of the proposed plan.

(3) The *irrigation* plan shall meet the following requirements:

(a) The same scale of the *site plan*, but no smaller than one inch equals 50 feet.

(b) Location of existing *trees*, *vegetation* and native plant communities to remain, if applicable.

(c) Location of existing *buildings*, paving, and *site* improvements to remain.

- (d) Location of proposed *buildings*, paving, *site* improvements, and water bodies.
- (e) Main location with sleeves, size and specifications.
- (f) Valve location, size and specifications.
- (g) Pump location, size and specifications or water source.
- (h) Backflow prevention device type and specifications.
- (i) Controller locations and specifications.
- (j) Zone layout plan (minimum scale 1" = 20"):
- (k) Provide 100 percent coverage and 100 percent overlap.
- (l) Indicating head-type, specifications and spacing.
- (m) Indicate location and details of rain sensor, second water meter, and rainwater citrons; and
- (n) Indicating methods used to achieve compliance with Florida Friendly principles as required by F.S. § 373.228.
- (o) Efficient *Irrigation* Design. All new *irrigation* installations shall meet the *irrigation* standards identified per F.S. § 373.228. These include:
 - (1) *Irrigation* systems, including the use of *micro irrigation* as appropriate, shall be designed to meet the needs of the plants in the *landscape*.
 - (2) When feasible, *irrigation* systems shall be designed to separately serve *turf* and non-*turf areas*.
 - (3) The *irrigation* system plans, and specifications shall identify the material to be used and the construction methods.
 - (4) The design shall consider soil, slope and other *site* characteristics in order to minimize water waste, including overspray, the watering of all impervious surfaces and other non-vegetated *areas*, and off-*site runoff*.
 - (5) The system shall be designed to minimize free flow conditions in case of damage or other mechanical failure.
 - (6) The system shall be designed to use the lowest quality water feasible.
 - (7) Rain switches or other approved devices, such as *soil moisture sensors* to prevent unnecessary *irrigation*, shall be incorporated. (F.S. § 373.62)
 - (8) A recommended seasonal operating schedule and average precipitation rate for each *irrigation zone* for both establishment and maintenance conditions shall be provided.
 - (9) Control systems shall provide the following minimum capabilities:

- i. Ability to be programmed in minutes, by day of week, season, time of day,
- ii. Ability to accommodate multiple start times and programs,
- iii. Automatic shut off after adequate rainfall,
- iv. Ability to maintain time during power outages for a minimum of three (3) days, and
- v. Operational flexibility to meet applicable year-round water conservation requirements and temporary water shortage restrictions.

(10) Recommended maintenance activities and schedules shall be included.

(11) Precipitation rates for sprinklers and all other emitters in the same zone shall be matched, except that *micro irrigation* emitters may be specified to meet the requirements of individual plants.

(12) *Irrigation* systems shall be designed to maximize uniformity, considering factors such as:

- i. Emitter types.
- ii. Head spacing.
- iii. Sprinkler pattern.
- iv. Water pressure at the emitter.

(13) *Irrigation* systems with main lines larger than two (2) inches or designed to supply more than seventy (70) gallons per minute shall incorporate a means to measure *irrigation water use*, at a minimum of ninety-five (95) percent accuracy across the flow range.

(14) *Irrigation* system plans and specifications shall require the system installer to conduct final testing and adjustments to achieve design specifications prior to completion of the system and acceptance by the *owner* or *owner's* representative.

(15) The *irrigation* system shall be designed to correlate to the organization plants into zones for efficiency. The water *use* zones shall be shown in the *irrigation* plan. All plants (including *turf*) require watering during establishment. Temporary facilities may be installed to facilitate establishment.

(16) Rain shut-off switch equipment shall be required on automatic *irrigation* systems to avoid *irrigation* during periods of sufficient soil moisture, in accordance with Florida Law (F.S. § 373.62). Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the *irrigation* cycle of the sprinkler system when adequate rainfall has occurred.

(17) The installation of tracer wire along main lines and laterals shall be required to permit easy location and prevent inadvertent cutting of pipes.

(18) If the water supply for the *irrigation* system is from a well, a constant pressure flow control device or *pressure tank* with adequate capacity shall be required to minimum pump “cycling”.

(19) Check valves must be installed at *irrigation* heads as needed to prevent low head drainage and puddling.

(20) Nozzle precipitation rates for all heads within each valve circuit must be matched to within twenty (20) percent of one another.

(21) A pressure-regulating valve shall be installed and maintained if static service pressure exceeds eighty (80) pounds per square inch. The pressure regulating valve shall be located between the meter and the first point of division in the pipe and set at a not more than fifty (50) pounds per square inch when measured at the most elevated fixture in the *structure* served. This requirement may be waived if satisfactory evidence is provided that high pressure is necessary in the design and that no water will be wasted as a result of high-pressure operation.

(22) To assist the end user to operate the system property, in addition to the minimum requirements of [Section] 373.228, F.S., the following are encouraged to be provided to the *owner* at the time of installation. The map shall be attached inside each *irrigation* controller or be kept in another readily available location if it is not practical to insert into a small container.

- i. *Irrigation* schedule information, with instructions for seasonal timer and sensor changes;
- ii. *Irrigation* system plans and specifications including as-constructed drawings, recommended maintenance activities and schedules;
- iii. Operations schedules, design precipitation rates, and instructions on adjusting the systems to *apply* less water after the *landscape* is established;
- iv. Maintenance schedule, water source, water shut-off method, and the manufacturing operational guide for their *irrigation* controller;
- v. To the extent feasible, similar information should be made available for subsequent property transfers.

(23) Reduced-pressure-principle backflow preventers shall be recertified yearly.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19)]

Sec. 90-254. 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 12 inches or two times the root ball of *planting soil* around root ball. A minimum of three inches of shredded, approved arsenic free, organic *mulch* or *groundcover* shall be installed around each *tree* planting for a minimum of 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 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 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 12 inches and backfilled with specified planting mix. No *mulch* shall be permitted in adjacent swales or right-of-way.

(4) Reserved.

(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) Reserved.

(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 are 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 *duplex* only) shall be provided with an automatically operating, underground, and rust free *irrigation* system designed to have 100 percent coverage with 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 F.S. § 373.62, 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.

(15) *Synthetic turf*. *Synthetic turf* is not permitted as *landscaped open space* or *pervious area*, but may be permitted as a material for *Impervious areas*.

(a) *Synthetic turf* shall comply with all of the following design standards and shall:

- i. Simulate the appearance of live *turf*, organic *turf*, grass, sod or lawn, and shall have a minimum eight-year “no fade” warranty.
- ii. Be of a type known as cut pile infill with pile fibers of a minimum height of 1.75 inches and a maximum height of 2.5 inches.
- iii. Have a minimum face weight of 75 ounces per square *yard*.
- iv. Be manufactured from polyethylene monofilament, dual yarn system, and manufactured in the United States.
- v. Have backing that is permeable.
- vi. Be lead free and flame retardant.

(b) *Synthetic turf* shall comply with all of the following installation standards and shall:

- i. Be installed by a state-licensed general contractor in a manner prescribed by the manufacturer.
- ii. Be installed over a subgrade prepared to provide positive drainage and an evenly *graded*, porous crushed rock aggregate material that is a minimum of three inches in depth.
- iii. Be anchored at all edges and seams consistent with the manufacturer’s specifications.
- iv. Not have visible seams between multiple panels.
- v. Have seams that are joined in a tight and secure manner.
- vi. Have an infill medium consisting of clean silica sand or other mixture, pursuant to the manufacturer’s specifications that shall:
 1. Be brushed into the fibers to ensure that the fibers remain in an upright position;
 2. Provide ballast that will help hold the *turf* in place; and
 3. Provide a cushioning effect.

(c) *Synthetic turf* shall comply with all of the following additional standards:

- i. *Areas* of living plant material shall be installed and/or maintained in conjunction with the installation of *synthetic turf*. Living plant material shall be provided per the minimum code requirements.
- ii. *Synthetic turf* shall be separated from planter *areas* and *tree* wells by a concrete mow strip, bender board or other barrier with a minimum four-inch thickness to prevent the intrusion of living plant material into the *synthetic turf*.

- iii. *Irrigation* systems proximate to the *synthetic turf* shall be directed so that no *irrigation* affects the *synthetic turf*.
- (d) *Synthetic turf* shall comply with all of the following maintenance standards:
 - i. Be maintained in an attractive and clean condition, and shall not contain holes, tears, stains, discoloration, seam separations, uplifted surfaces or edges, heat degradation or excessive wear.
 - ii. Be maintained in a green fadeless condition and free of weeds, debris, and impressions.
- (e) The following *uses* are prohibited:
 - i. *Synthetic turf* in the public rights-of-way or swales.
 - ii. *Synthetic turf* shall not be *used* as a screening material where screening is required by the Code.
- (f) Any property owner with *synthetic turf* installed prior to the effective date of this ordinance may count such *synthetic turf* towards minimum *landscape* requirements and shall demonstrate compliance with the requirements of this section to the satisfaction of the *Town Planner* and Building Official within 180 days of the effective date of this ordinance, after providing, at a minimum, all of the following information:
 - i. A complete *landscape* plan showing the *area* of *synthetic turf*, *area* of living plant material, and *area* and method of separation between these *areas*.
 - ii. Details regarding existing or proposed *irrigation* proximate to the *synthetic turf*.
 - iii. Brand and type of *synthetic turf*, including all manufacturer specifications and warranties.
 - iv. A scaled cross section and details of the proposed materials and installation, including but not limited to subgrade, drainage, base or leveling layer, and infill.
 - v. A survey of the property with a signed affidavit from the property owner that no changes have occurred since the date of the survey.
- (g) Phasing out of previously installed *synthetic turf* counted towards minimum *landscape* requirements. So long as *synthetic turf* installed prior to the effective date of this ordinance is maintained in compliance with this sub-section, it may remain for its usable life. Once at the end of its usable life or if it is determined by the *Town* that 25% or more of its surface *area* is not in compliance with this sub-section, the *synthetic turf* may not be repaired or replaced with new *synthetic turf*, and shall be removed and replaced with living plant material or other approved covering permitted under this *landscape* code.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11; Ord. No. 18-1680 , § 3, 4-10-18; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 3, 1-14-20]

Sec. 90-255. 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.

(2) Florida Friendly *Fertilizer Use* To regulate the proper *use* of *fertilizers* by any *person* who applies *fertilizer* on *turf* and/or *landscape* or plants; requires proper training of commercial and institutional *fertilizer applicators*; establishes training and licensing requirements; establishes a *prohibited application period*; specifies allowable *application fertilizer application* rates and methods, *fertilizer-free* and low maintenance zones, and exceptions. It requires the *use* of *Best management practices* for the *application* of *fertilizer* to minimize negative environmental effects associated with excessive nutrients in water bodies. These environmental effects have been observed in Dade County's natural and constructed stormwater conveyances, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an important asset to the environmental, recreational, cultural and economic well-being of *Town of Surfside* residents and their public health. Overgrowth of algae and *vegetation* hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. *Regulation* of nutrients, including both phosphorus and nitrogen contained in *fertilizer*, is anticipated to help improve and maintain water and habitat quality.

(a) Timing of fertilizer applications.

- i. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to *turf* and/or *landscape* plants during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of *Town of Surfside*, issued by the National Weather Service.
- ii. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to *turf* and/or *landscape* plants if heavy rain two inches or more within a 24-hour period is likely.
- iii. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to saturated soils.
- iv. *Fertilizer* containing nitrogen and/or phosphorus shall not be applied before seeding or sodding a site and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding

for temporary or permanent erosion control in an emergency situation (wildfire, *etc.*), or in accordance with the stormwater pollution prevent plan for the site.

v. *Fertilizer free zones.* *Fertilizer* shall not be applied within ten feet of any water body or canal as defined by the Florida Department of Environmental Protection in Chapter 62-340, Florida Administrative Code, or from the top of a seawall or lake bulkhead. Newly planted *turf* or *landscape* plants may be fertilized in this zone only for a 60-day period beginning no sooner than 30 days after planting if needed to allow the *vegetation* to become well established. Caution shall be used to prevent direct deposition of *fertilizer* into the water.

(b) *Fertilizer content and application rates.*

i. *Fertilizers* applied to *turf* shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban *Turf Fertilizers*. Under Rule 5E-1.003(2), Florida Administrative Code, required *application* rate and frequency maximums, which vary by plant and *turf* types, are found on the labeled *fertilizer* bag or container.

ii. Nitrogen or phosphorus *fertilizer* shall not be applied to *turf* or *landscape* plants except as provided in subsection (1) above for *turf*, or in UF/IFAS recommendations for *landscape* plants, vegetable gardens, and fruit *trees* and *shrubs*, unless a soil or tissue deficiency has been verified by an *approved test*.

iii. *Fertilizer* used for sports *turf* at golf courses shall be applied in accordance with the recommendations in “*Best management practices* for the Enhancement of Environmental Quality on Florida Golf Courses,” published by the Florida Department of Environmental Protection, dated January 2007, as may be amended. *Fertilizer* used at park or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

(c) *Fertilizer application practices.*

i. Spreader deflector shields shall be used when *fertilizing* via rotary (broadcast) spreaders. Deflectors must be positioned such that *fertilizer* granules are deflected away from all impervious surfaces, *fertilizer*-free zones and water bodies, including wetlands. Any *fertilizer* applied, spilled or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

ii. *Fertilizer* released on an impervious surface must be immediately contained and either legally applied to *turf* or any other legal site or returned to the original or other appropriate container.

iii. In no case shall *fertilizer* be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

iv. Property *owners* and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.

(d) Training.

i. All commercial and *institutional applicators* of *fertilizer* shall abide by and successfully complete the six-hour training program in the “Florida-Friendly *Best management practices* for Protection of Water Resources by the Green Industries” offered by the Florida Department of Environmental Protection through the University of Florida/Broward County Cooperative Extension Service “*Florida-friendly landscapes*” program or an approved equivalent program. A trained *applicator* shall have identification or other evidence of successful completion of the training program on their *person* at all times while *applying fertilizer*.

ii. Non-commercial and non-*institutional applicators* not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida/IFAS “*Florida-friendly landscape Program*” and label instructions when *applying fertilizers*.

(e) Licensing of commercial applicators.

i. All *businesses applying fertilizer to turf or landscape plants* (including, but not limited to, residential lawns, golf courses, commercial properties, *multi-family* and condominium properties) must ensure that the *business owner* or his/her designee and at least (1) employee holds the appropriate “Florida-Friendly *Best management practices* for Protection of Water Resources by the Green Industries” training certificate prior to the *business owner* obtaining a *Town business tax receipt*. Standard *business tax receipt* (BTR) and transaction fees shall *apply*. *Owners* for any category of occupation which may apply any *fertilizer to Turf and/or Landscape Plants* shall provide proof of completion of the program to the *Town of Surfside*. It is the responsibility of the *business owner* to maintain the “Florida-Friendly *Best management practices* for Protection of Water Resources by the Green Industries” certificate to receive their *business tax receipt* annually.

ii. After adoption of this ordinance, all commercial *applicators of fertilizer* within the *Town of Surfside*, shall have and carry in their possession at all times when *applying fertilizer*, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial *Fertilizer Applicator* per Rule 5E-14.117(18), Florida Administrative Code.

(3) Pesticide Management.

i. All *landscape applications* of pesticides, including “Weed and Feed” products, for hire shall be made in accordance with State and Federal Law and with the most current version of the Florida-Friendly *Best management practices* for Protection of Water Resources by the Green Industries, as amended.

ii. When using pesticides, all label instructions of State and Federal law shall be adhered to. The Florida Department of Agriculture and Consumer Services is responsible for enforcement of pesticide laws.

(4) Management of grass clippings and vegetative matter. In no case shall grass clippings, vegetative material, and/or vegetative debris intentionally be washed, swept or blown on to or into storm-water drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

(5) 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 inches above the ground. The *use* of *mulch* in swales or right-of-way is prohibited.

NOTE: If weeds, noxious grasses or underbrush are in excess of the eight inches; it too will need to be cut and the weeds, noxious grasses and underbrush removed and re-sodded if necessary.

(6) *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.

(7) Preserved and created native plant communities shall be maintained in a natural state without the use of mechanical equipment.

(8) 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.

(9) 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*.

(10) 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.

(11) *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.

(12) Any plastic or similar artificial *landscape* materials shall be prohibited with the exception of seasonal holiday decorative displays of less than 60 days duration and *synthetic_turf* as provided for in this article. *Synthetic turf* shall be permitted with the exception that it shall not be counted towards the minimum *landscaped area*, buffers, foundation planting or *landscape* islands.

(13) All property *owners* shall keep such property and the adjoining unpaved portions of the public rights-of-way, swales and bulkheads clean and free from any accumulation of garbage, trash, liter, or debris.

(14) 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.

(15) The provisions of this Article shall be enforced pursuant to Chapter 15, Article I, of this Code, and by any other means permitted by law.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 18-1680 , § 3, 4-10-18; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 4, 1-14-20)]

Sec. 90-256. Plant material.

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 100 percent coverage at time of planting and cut to fit all *landscape* planters and curb *areas*.

2. Native vegetation.

50 percent of all *vegetation*, excluding all *turf* grass, required to be planted by this Code shall be indigenous to South Florida.

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 2½ percent of the site to be planted and preserved as an *native plant community*. Sites which consist of two to five acres may incorporate a *native plant community* into the *landscape* buffer or interior *landscaping* requirements.

4. Trees:

(a) Shade/canopy tree: Shade/canopy tree shall be a minimum *overall height* of 14 feet, six feet spread, 2½ inches *DBH* and five feet *clear trunk*. This category shall constitute 20 percent of the minimum required *trees*.

(b) Intermediate trees: Intermediate *trees* shall be a minimum *overall height* of 12 feet, five feet spread, two inches *DBH* and 4½ feet *clear trunk*. This category shall constitute 20 percent maximum of the required *trees*.

(c) Small trees: Small *trees* shall be a minimum *overall height* of ten feet, 4½ feet spread, one and 1½ inches *DBH* and four feet *clear trunk*. This category shall constitute no more than 20 percent of the required *trees*.

(d) Palms: Palms shall have a minimum of six feet grey wood and shall constitute no more than 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 for one and planted with staggered heights.

NOTE: All proposed coconut palms shall be certified to be resistant to Lethal yellowing.

(e) All *landscaping* including *shrubs* and *groundcover* shall be guaranteed for one year after final *landscape* inspection.

(f) *Street tree* requirements:

- (1) *Street trees* shall be required at one shade *tree/palm tree* per 20 linear feet of *street frontage* thereof along all public or private *street* rights-of-way in all zoning *districts*.
- (2) *Street trees* shall be of a species typically grown in South Florida that normally matures to a height of at least 20 feet. *Street trees* shall have a *clear trunk* of over seven feet, an *overall height* of fourteen (14—16) feet and a minimum of 2½ inches *DBH* at time of planting. *Palm trees* utilized as *street trees* shall have eight foot *clear wood*.
- (3) 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*.
- (4) *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.
- (5) *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*. A public works permit shall be obtained prior to planting any *tree* in the right-of-way. *Trees* shall be planted in conformance with the Right *Tree*, Right Place Guidelines for planting *trees* near power lines published within Florida Power & Light's "Right *Tree*, Right Place" brochure, as amended.
- (6) *Street trees* planted along roadways and/or sidewalks shall be placed a minimum of four feet off the interior pavement edge.
- (7) *Street trees* planted within sidewalk or curbed planting *area* along parallel parking shall have a minimum planting *area* of six feet by six feet. If the *street tree* is planted within the sidewalk, root barrier(s) of minimum

depth of 12 inches shall be installed per manufacturer's recommendations. These *trees* shall require adjustable *tree* grates or *groundcover* to full coverage inside planting *area*.

(8) 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. *Trees* must be maintained free and clear of powerlines and all *trees* and plantings shall be maintained in a manner which prevents and alleviates the danger of the *trees* damaging power lines, consulting with American National Standards Institute ("ANSI") A300 (Part I)—2001 Pruning Standards, as amended, and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing *Trees*, and Cutting Brush Safety Requirements, as amended. 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.

(9) If any property *owner* fails to maintain *trees* and other *landscaping* in right-of-way or on private property, as required by this Code, the *Town* shall provide a written warning with 45 days to remedy, after which, the *Town* may take action and assess costs pursuant to article III, property maintenance standards of chapter 14.

(10) Where the *Town* determines a *tree* or *landscaping* in the right-of-way poses an immediate threat to the health, safety and welfare of residents or is extremely likely to cause imminent damage to utilities or powerlines, said *tree* or *landscaping* may be removed by the *Town*, at the *owner's* expense. Such costs shall be assessed against a property *owner* and property pursuant to article III, property maintenance standards of chapter 14.

(g) It shall be a violation of this Code of any *person* to plant, replant, permit to be planted or permit to be replanted any of the plants, *trees*, weeds, *shrubs* and *vegetation* listed below. In addition, these species shall be removed from the construction sites with the exception of existing *figus hedges* that have been

damaged during a strong storm or hurricane. If 50 percent or more viable ficus hedge material is left than the additional missing 50 percent or less can be replaced:

Botanical Name	Common Name
Acacia auriculiformis	Earleaf Acacia
Adenanthera pavonina	Red sandalwood
Aeginetiaspp. (all)	Aeginetia
Ageratina adenophora	Crofton weed
Albizia julibrissin	Mimosa
Albizia lebeck	Woman's Tongue
Alectra spp. (all)	Yerba de hierro
Alternanthera philoxeroides	Alligator weed
Alternanthera sessilis	Sessile joyweed
Araucaria heterophylla	Norfolk Island Pine
Ardisia crenata	Coral ardisia
Ardisia solanacea	Shoebutton Ardisia
Asphodelus fistulosus	Onionweed
Avena sterilis	Animated oat
Azolla pinnata	Asian mosquito fern
Bischofia javanica	Bischofia, Toog
Borreria alata	Broadleaf buttonweed
Brassaia actinophylla	Schefflera
Broussonetia papyrifera	Paper mulberry
Carthamus oxycantha	Wild safflower
Casuarina spp.	Australian Pine
Cestrum diurnum	Day blooming jasmine
Chrysopogon aciculatus	Pilipiliula
Cinnamomum camphora esculenta	Colocasia Camphor tree Taro
Colubrina asiatica	Latherleaf
Commelina benghalensis	Benghal dayflower

Botanical Name	Common Name
Crassula helmsii	Swamp stonecrop
Crupina vulgaris	Common crupina
Cupianopsis spp.	Carrotwood
Cuscuta japonica	Japanese dodder
Cuscuta megalocarpa	Bigfruit dodder
Cuscuta potosina	Globe dodder
Cuscutaspp. (except natives)	Exotic dodder vines
Dalbergia sissoo	Indian Rosewood
Digitaria abyssinica	Couch grass
Digitaria velutina	Velvet finger grass
Dioscorea alata	White yam
Dioscorea bulbifera	Air potato
Drymaria arenarioides	Alfombrilla
Eichhornia azurea	Anchored waterhyacinth
Eichhornia spp. (all)	Water hyacinths
Emex australis	Three-cornered jack
Emex spinosa	Devil's thorn
Enterolobium contortisliquum	Ear-pod <u>tree</u>
Eucalyptus spp. (1 or more)	Eucalyptus trees
Euphorbia prunifolia	Painted euphorbia
Fatoua spp. all	Fescue
Ficus altissima	False banyan
Ficus benghalensis	Banyan <u>tree</u>
Ficus benjamina	Weeping fig
Ficus carica	Edible fig
Ficus decora	Rubber tree
Ficus nitida/Ficus microcarpa	Cuban laurel
Ficus religiosa	Bo tree
Ficus spp. (all non-natives)	Ficus
Flacourtia indica	Governor's plum
Flueggea virosa	Flueggea

Botanical Name	Common Name
Foeniculum vulgare	Fennel
Fragaria chiloensis var. Ananassa	Strawberry
Fraxinus uhdei	Shamel ash
Galega officinalis	Goatsrue
Grevillea robusta	Silk Oak
Heracleum mantegazzianum	Giant hogweed
Hibiscus tiliaceus	Mahoe
Hydrilla verticillata	hydrilla
Hygrophila polysperma	Miramar weed
Imperata brasiliensis	Brazilian satintail
Imperata spp.	Cogon grass
Ipomoea aquatica Ipomoea fistulosa	Chinese waterspinach Shrub morning glory
Ipomoea triloba	Little bell morning glory
Jacaranda acutifolia	Jacaranda
Jasminum dichotomum	Gold Coast jasmine
Jasminum fluminense	Brazilian jasmine
Lagarosiphon major	Oxygen weed
Lagarosiphonspp. (all)	African elodeas
Lantana camara	<u>Shrub</u> verbena
Leptochloa chinensis	Asian sprangletop
Leucaena leucocephala	Lead <u>Tree</u> , Jumbie Bean
Ligustrum sinense	Chinese privet
Limnocharis flava	Sawa flowering-rush
Limnophila sessiliflora	Ambulia
Lonicera japonica	Japanese honeysuckle
Lycium ferocissimum	African boxthorn
Lygodium japonicum	Japanese climbing fern
Lygodium microphyllum	Old World climbing fern
Lythrum salicaria	Purple loosestrife
Manilkara zapota	Sapodilla

Botanical Name	Common Name
Melaleuca quinquenervia	Melaleuca or Paperbark
Melastoma malabathricum	Indian rhododendron
Melia azederach	Chinaberry tree
Merremia tuberosa	Woodrose
Mikania cordata	Mile-a-minute vine
Mikania micrantha	Mile-a-minute vine
Mimosa invisa	Giant sensitive plant
Mimosa pigra	Cat-claw mimosa
Monochoria hastata	Monochoria
Monochoria vaginalis	Asian pickerel weed
Myriophyllum spicatum	Eurasian watermilfoil
Nassella trichotoma	Serrated tussock
Nechamandra alternifolia	Indian elodea
Neyraudia reynaudiana	Burma reed
Orobanchespp. except (O. uniflora)	Broomrape
Oryza longistaminata	Red rice
Oryza punctata	Red rice
Oryza rufipogon	Wild red rice
Ottelia alismoides	Duck-lettuce
Paederia cruddasiana	Sewer vine
Paederia foetida	Skunk vine
Paspalum scrobiculatum	Kodo-millet
Pennisetum clandestinum	Kikuyu grass or Napier grass
Pennisetum macrourum	African feather grass
Pennisetum pedicellatum	Kyasuma grass
Pennisetum polystachyon	Mission grass
Pistia stratiotes	Water-lettuce
Pongamia pinnata	Pongam
Pontederia rotundifolia	Tropical pickerelweed
Prosopis spp. (Except natives)	Mesquite
Pueraria Montana	Kudzu

Botanical Name	Common Name
<i>Rhodomirtus 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</i> spp.	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>Trapa</i> spp. (all)	Water chestnuts
<i>Tribulua cistoides</i>	Puncture vine
<i>Tridax procumbens</i>	Coat buttons
<i>Urochloa panicoides</i>	Liverseed grass

Botanical Name	Common Name
Vossia cuspidate	Hippo grass
Wedelia trilobata	Wedelia

(h) 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.

(i) The *use* of plant materials that reinforce the ambience of the *Town's* distinctive, lush, subtropical character is encouraged.

(j) 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
Arborvitae spp.	Thuja
Dypsis lutescens	Areca Palm
Veitchia merrillii	Christmas Palm
Cupressus sempervirens	Italian Cypress
Caryota mitis	Fishtail Palm
Citrus spp.	Citrus
Nerium oleander	Oleander
Ravenala madagascariensis	Travelers Tree
Phoenix roebelenii	Pygmy Date Palm
Sterlizia nicolai	White Bird of Paradise

(k) All *trees* and palms must be a minimum of four feet from all underground utility lines. Also, refer to the *site* lighting and fire hydrant requirements for *tree* and palms.

- (l) All invasive exotic pest plants shall be removed from the site prior to final inspection.
- (m) All *landscape* substitutions including *shrubs* and *groundcover* shall require *Town* approval prior to installation.
- (n) No more than 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

5. *Shrubs and hedges.*

- (a) *Shrubs* shall be a minimum of two feet high, full to base, two feet spreads and planted two feet on center when measured immediately after planting. If the spreads can not be met with the two feet requirement then 18 inches spreads and 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 feet in height above the vehicular *open space* pavement surface that directly abuts the *shrubs* at time of planting and branch touching branch.
- (b) Required buffer *hedges* shall be planted two feet high, full to the base, two-foot spreads and two 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 feet, to be attained within one year after planting. If the spreads can not be met with the two-foot requirement then 18-inches spreads and 18 inches on centers can be utilized.

(c) *Shrubs* shall be planted so the branches do not touch the *building walls* or walkways at time of planting.

(d) *Ficus* spp., when planted as a *hedge*, may be used to meet the requirements of dumpster enclosure, mechanical equipment and electrical transformer screening only.

6. *Vines*.

Vines shall be full and a minimum of 30 inches in supported height immediately after planting. The method of attachment shall be indicated on the *landscape* plans.

7. *Groundcover*.

Groundcovers shall be full and planted with a minimum of 75 percent coverage with 100 percent coverage occurring within three months of installation. All ground cover shall be planted so not to touch the *building walls* or walkways at time of planting.

8. *Turf*:

(a) 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.

(b) *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.

(c) *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.

(d) The following percentages shall apply to *turf areas*:

(1) No more than 80 percent of the *landscape area* for *single-family* and *duplex dwellings* may be in *turf* grass.

(2) No more than 60 percent of the *landscape area* for *multifamily dwellings* may be in *turf* grass.

(3) No more than 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.

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 50 percent muck and 50 percent sand or 80 percent sand and 20 percent muck.

[(Ord. No. 1558, § 2(Exh. A), 6-8-10; Ord. No. 18-1680 , § 3, 4-10-18)]

Sec. 90-257. Vegetative provisions.

1. Florida Friendly.

(a) A minimum of 40 percent of the *pervious area* on *single family* and *duplex dwellings* must be in Florida Friendly *landscape*. For purposes of calculating this percentage, the *area* of Florida Friendly *landscaping* shall include the estimated *tree canopy* of any *trees* at time of planting.

(b) A minimum of 40 percent of the *pervious area* of *multifamily dwellings* must be Florida Friendly *landscape*. For purposes of calculating this percentage, the *area* of Florida Friendly *landscaping* shall include the estimated *tree canopy* of any *trees* at time of planting.

(c) A minimum of 50 percent of the *pervious area* of all other development *uses* must be in Florida Friendly *landscape*. For purposes of calculating this percentage, the *area* of Florida Friendly *landscaping* shall include the estimated *tree canopy* of any *trees* at time of planting.

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.

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.

[Ord. No. 1558, § 2(Exh. A), 6-8-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-258. Landscape buffer areas between residential and non-residential properties and vehicular use areas.

1. Applicability:

All proposed development or *redevelopment sites* and *vehicular use areas* serving H30C, H40, H120, 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 shall be exempt. Expansive concrete or paver *areas* shall require *landscaping* to soften and scale the *buildings*.

2. Required buffer *landscaping* adjacent to *streets* and abutting properties:

On any proposed, redeveloped site, or open *lot* providing a *vehicular use area* for H30C, H40, H120, 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 feet in depth, located along all the property lines of abutting *street(s)* and abutting property line(s) shall be *landscaped*, except that the *landscape* buffer abutting Collins Avenue in the H120 *district* shall begin 2.5 feet east of the east edge of public sidewalk and shall be 7.5 feet wide. The 2.5-foot *area* between the public sidewalk and *landscaping* shall be improved with the same surface treatment as the public sidewalk to result in a wider pedestrian path along the east side of Collins Avenue. All *landscape* buffers shall include three *trees* for each 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 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 Florida

Friendly 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 Florida Friendly 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 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 or less contiguous parking stalls along the same parking aisle, the eleventh space shall be a *landscaped* peninsula a minimum of 11 feet in width with a minimum of ten feet wide *landscape area*. Also, all rows of parking shall be terminated with 11 feet in width *landscape* islands with ten feet wide *landscape area*. In addition, there shall be a minimum requirement of one shade *tree* and 25 *shrubs* planted for every *landscaped* island. If *landscaped* divider medians are utilized, they must be a minimum of six feet wide. The minimum dimensions of all proposed *landscaped areas* not mentioned in this chapter shall be six 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 2½feet 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 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*.

[Ord. No. 1554, § 2, 6-8-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-259. Reserved.

Editor's note— Ord. No. 1626, § 3, adopted Nov. 18, 2014, repealed former § 90-94 in its entirety which pertained to sight triangles and clearance and derived from Ord. No. 1558, § 2(Exh. A), adopted Aug. 10, 2010.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-260. 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 Florida Friendly requirements.

(b) Along all *buildings* and *structures*, mature *landscaping* at installation shall be installed at one-half the *height of the building or structure* at one *tree* per 25 linear feet of each *building's* facade on all sides for scaling and softening. On *buildings* over 75 feet in height the proposed *trees/palms* shall be at least 35 to 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 *tree* per 25 feet being one-half the *height of the building* at installation. Additionally, *shrubs* and *groundcovers* shall be added to enhance the *building*. In all *districts* except the SD-B40 *district*, a minimum six-foot-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 <i>Site</i> in <i>Open space</i> (Amount of Pervious Landscape Planting Area)	<i>Tree</i> and <i>Shrub</i> Requirements
Less than 30%	1 <i>tree</i> and 10 <i>shrubs</i> per 1,000 sf
30—39%	1 <i>tree</i> and 8 <i>shrubs</i> per 1,500 sf
40—49%	1 <i>tree</i> and 6 <i>shrubs</i> per 2,000 sf
50% or more	1 <i>tree</i> and 6 <i>shrubs</i> 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 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 foot above. In addition, bus shelters which are located within property lines shall be screened with plant material a minimum of two feet in height on three sides, and one *canopy tree*, 14 feet in height or three 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 feet of lineal width of the *sign structure* on each side; and *groundcover*, a minimum of five 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*.

[Ord. No. 1554, § 2, 6-8-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-261. 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 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 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 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 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 2½ foot tall undulating and meandering *landscape berm* at three to one 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*.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-262. 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*: Except for new construction, 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 modifications to existing H30A and H30B *dwellings*, however, plans

are recommended. New construction in H30A and H30B shall provide a *landscape and tree* disposition plan prepared by a registered *landscape* architect at the time of application for design review.

(2) General *landscape* treatment: For all new construction, *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 Florida Friendly to be a minimum of 40 percent of the *area* of *open space* of the site. For purposes of calculating this percentage, the *area* of Florida Friendly *landscaping* shall include the estimated *tree canopy* of any *trees* at time of planting.

(3) *Shrub and tree requirements*:

(a) A minimum of five *trees* of two different species and 25 *shrubs* shall be planted per *lot*. On *corner lots* an additional one *tree* and 10 *shrubs* shall be required. For all *lots* larger than 8,000 square feet in *area*, additional *shrubs* and *trees* shall be provided at the rate of one *tree* and ten *shrubs* per 2,000 square feet of *lot area*; however, there shall be no more than 15 *trees* and 100 *shrubs* required per *acre*.

(b) Where possible, a minimum of two *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 30 percent at an *overall height* of 12 feet to 14 feet with a minimum *canopy* spread of five feet and a *DBH* of 2½ inches. The small *trees* can be a maximum of 30 percent at 12 to 14 feet and minimum *canopy* spread of six feet and *DBH* of 2½ inches. Palm *trees* shall have a minimum of six feet of grey wood or *clear wood* and are counted as three for one (unless from the one for one list) and total palms can not make up more than 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-263. 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* shall inspect all projects for compliance prior to issuance of a *certificate of use*, *certificate of occupancy*, or certificate of completion.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-264. - 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-265. - 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Secs. 90-266-272. Reserved.

ARTICLE VI. - REASONABLE ACCOMMODATION AND RELIGIOUS LAND USE RELIEF PROCEDURES

Sec. 90-273. - Religious land use relief procedures.

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 (7). 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 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 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.

(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 instruction, 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.

(d) 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.

(e) 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.

(f) 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.

[Ord. No. 1510, § 2, 1-13-09]

Sec. 90-274. Reasonable accommodation procedures.

(a) Implementation of policy. This section implements the policy of the Town for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for *persons* with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601 *et seq.*) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 *et seq.*) ("ADA"). For purposes of this section, a "disabled" individual or *person* is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any *person* who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the Town's ordinances, rules, policies, practices and/or procedures (hereinafter, for the purposes of this section, the "Town *Regulations*") as provided by the FHA and the ADA pursuant to the procedures set out in this section. The

Town Commission shall appoint a special master who shall make final determinations on applications for reasonable accommodations related to relief from Town *Regulations*.

(b) Request to be in writing. A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the Town Manager. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. For a reasonable accommodation to any of the Town *regulations* pertaining to housing or zoning, the application, shall, at a minimum, require the following information:

- (1) Name and contact information for applicant or applicant's authorized representative;
- (2) Address of housing or other location at which accommodation is requested;
- (3) Description of reasonable accommodation required;
- (4) A description of the accommodation and the specific *regulation(s)* and/or procedure(s) from which accommodation is sought;
- (5) Reason(s) the reasonable accommodation may be necessary for the individual(s) with disabilities to use and enjoy the housing or other service;
- (6) A statement as to whether the applicant is seeking the accommodation in order to make housing and/or provision of housing financially viable, with supporting documentation;
- (7) A statement as to whether the applicant is seeking the accommodation is therapeutically necessary, with supporting documentation; and
- (8) Proof of satisfactory fire, safety, and health inspections required by F.S. § 397.487, as amended, and other applicable law.

(c) Medical information; confidentiality. Should the information provided by the disabled individual to the Town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual(s), such individual(s) may, at the time of submitting such medical information, request that the Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual(s). The

Town shall thereafter endeavor to provide written notice to the disabled individual(s), and/or their representative, of any request received by the Town for disclosure of the medical information or documentation which the disabled individual(s) has previously requested be treated as confidential by the Town. The Town will cooperate with the disabled individual(s), to the extent allowed by law, in actions initiated by such individual(s) to oppose the disclosure of such medical information or documentation, but the Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual(s).

(d) Determination process.

(1) The special master shall issue a written determination within 60 days of the date of receipt of a completed application or a date mutually agreeable to both the Town and the applicant, except as provided in paragraph 3, below, and may, in accordance with federal law:

- a. Grant the accommodation request,
- b. Grant a portion of the request and deny a portion of the request and/or impose conditions upon the grant of the request, or
- c. Deny the request in accordance with federal law. If the request is denied, the order shall state the grounds therefore. All written determinations shall give notice of the right to appeal.

(2) The notice of determination shall be sent to the applicant (i.e., the disabled individuals or representative) by certified mail, return receipt requested.

(3) If reasonably necessary to reach a determination on the request for reasonable accommodation, the special master or Town Manager or designee, prior to the end of said 60-day period, may request additional information from the applicant, specifying in sufficient detail what additional information is required. The applicant shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 60-day period to issue a written determination shall no longer be applicable, and the special master shall issue a written determination within 30 days after receipt of the additional information or 90 days after the initial receipt of the application, whichever is later. If the applicant fails to provide all of the

requested additional information within said 15-day period, the Town Manager or designee shall issue a written notice advising that the applicant has failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the Town with regard to said reasonable accommodation request shall be required. Such time frames may be extended by mutual agreement of the Town and the applicant.

(e) Criteria for determination. In determining whether the reasonable accommodation request shall be granted or denied, the applicant shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped, disabled or qualifying entities, as defined in the FHA and/or ADA. Further, the applicant must demonstrate that:

- (1) A physical or mental impairment which substantially limits one or major life activities; a record of having such impairment; or that they are regarded as having such impairment.
- (2) That the proposed accommodations being sought are reasonable and necessary. The foregoing (as interpreted by the courts in evaluating reasonable accommodation requests under the FHA or ADA) shall be the basis for a decision upon a reasonable accommodation request made by the special master, or by the Town Commission in the event of an appeal.
- (3) The requested accommodation would not fundamentally alter the Town's zoning scheme.

The special master may impose conditions or modifications he/she deems necessary to mitigate any factors which would fundamentally alter the Town's zoning scheme or to protect the public health and safety or are reasonably necessary to assure compliance with his/her order.

(f) Appeal of determination. Within 30 days after the special master's determination on a reasonable accommodation request, or any order or action of the special master with respect to the application of this section, is mailed to the applicant, such applicant may appeal the decision to the Town Commission. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to the Town Commission who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. Where the appeal is based upon a provision of the Town *regulations*, the Planning and Zoning Board

shall first hold a hearing to make a recommendation on the appeal to the Town Commission.

(g) Fees. There shall be no fee imposed by the Town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the Town Commission, and the Town shall have no obligation to pay an applicant's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

(h) Stay of enforcement. While an application for reasonable accommodation, or appeal or 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.

(i) Miscellaneous provisions. The following general provisions shall be applicable:

(1) The Town shall display a notice in the Town's public notice bulletin board (and shall maintain copies available for review in the *building/permitting* division, and the Town Clerk's Office), advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.

(2) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a *person* designated by the disabled individual.

(3) The Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled *person's* request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the form, filing an appeal; and appearing at a hearing, etc., to ensure the process is accessible.

(j) Revocation of reasonable accommodation. Any reasonable accommodation received shall be deemed revoked if the applicant or the property upon which the accommodation is granted is found in violation of any provision of the order granting the reasonable accommodation by a court of law or by the special master hearing code enforcement cases.

(k) Recertification. All reasonable accommodation requests approved by the Town are valid for no more than two years. Recertification requests must be filed at least 90 days before the conclusion of the end of the two-year period of

effectiveness of the reasonable accommodation order. The process for recertification shall follow the same requirements as set forth above for “Requests for Accommodation”, and review of recertification requests shall follow the same procedures as outlined above for new applications. The failure of the applicant to timely apply for annual recertification, or the denial of an application to recertify annually, shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same requirements as set forth above.

[Ord. No. 18-1693 , § 2, 12-11-18]

Sec. 90-275. Architecturally Significant Buildings.

1. Applicability. This section shall apply to: (a) any *structure* designated as historic by the Miami-Dade County Historic Preservation Board; and (b) any other commercial *building* on Harding Avenue or any *hotel* or *multifamily building* on Collins Avenue designated an *Architecturally Significant Building* by the Town Commission under the process described herein.

2. Designation of Architecturally Significant Building.

(a) Requests for designation of an *Architecturally Significant Building* may be made to the Town Commission by the City Manager, by resolution of the Planning and Zoning Board or by motion of the City Commission, by any property *owner* in respect to his own property, by resolution of the county historic preservation board, or by resolution of any organization whose purpose is to promote the preservation of architecturally significant sites. Any non-governmental applicant shall pay the appropriate fee for review set forth in the Town’s schedule of fees.

(b) Review. Upon receipt of a completed application and fees, if applicable, the Town Planner shall prepare an evaluation and recommendation for consideration by the Planning and Zoning Board. After considering the department's recommendation, a majority vote of the Planning and Zoning Board shall be necessary to have the determination on designation reviewed for final approval by the Town Commission, which shall have full power to approve or deny the designation.

(c) Criteria for designation. The Town Planner, Planning and Zoning Board, and the Town Commission shall consider and evaluate the propriety of designating a *building* or *structure* as an *Architecturally Significant Building*, considering specifically the extent to which the *building* or *structure(s)*:

1. Embodies the distinctive characteristics of a historical period, architectural or design style or method of construction, and incorporate at least two of the typical characteristics of its architectural style to be deemed to be architecturally significant or, alternatively, must have been designed by an architect well-known for the style in South Florida. Elements of the relevant styles are as follows:

i. Miami Modern.

- a. Use of concrete block or exposed concrete.
- b. Use of asymmetry, acute angles, boomerang shapes, cutouts, pylons, arches, geometric shapes, repetitive motifs or hyperparaboloids.
- c. Use of plate-glass, ribbon, clerestory and canted windows.
- d. The mixture of two or more textured surfaces.
- e. Use of brise-soleils and architectural screen block.
- f. Overhanging roof plates and projecting floor slabs.
- g. Exemplifies a regional style of architecture constructed in the post-war period.

ii. Streamline Modern.

- a. *Building* forms that evoke automobiles, trains, ocean liners, and airplanes.
- b. *Massing* that reflects abstract, simplified forms with rounded corners devoid of much applied decoration.
- c. Horizontal compositions, bands of windows, racing stripes, and *flat roofs*.
- d. Use of vitrolite, glass block, chrome, stainless steel, and terrazzo.
- e. "Eyebrow" ledges over the windows, front porches,
- f. Use of nautical motifs like porthole windows, and bas-relief panels depicting tropical scenes.

iii. Mediterranean Revival.

- a. Use of bell towers, *awnings*, porches, balconies, carved stonework.

- b. Style reflects the architectural influences of the Mediterranean coast: Italian, Byzantine, French, and Moorish themes from southern Spain.
 - c. Application of Spanish baroque decoration to openings, balconies, and cornices.
 - d. Use of arches, parapets, twisted columns, pediments, and other classical details.
 - e. Use of stucco *walls*, red tile roofs, wrought iron grilles and railings, wood brackets and balconies.
 - f. Use of casement windows.
- 2. Possesses high artistic values.
 - 3. Represents the work of a master, serve as an outstanding or representative work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage.
 - 4. Any other consideration relevant to the design, architecture, or function of a *building*.
- (d) Notice, Requests for Deferral, Permit Hold. All hearings before the Planning and Zoning Board or the Town Commission shall be noticed in the same manner as a special exception with additional notice mailed to the property *owner* of the *site* under consideration for designation by certified mail, return receipt requested postmarked at least 15 days before the hearing. The property *owner* of the property under consideration for designation shall be entitled to one deferral without cause. Any subsequent request for deferral by the property *owner* shall be for cause in the sole discretion of the appropriate board.
- (e) Permit hold. *Building* permits of any kind, including demolition permits, shall not be issued for a property under consideration after the postmark date of the notice to the property *owner* prior to the Planning and Zoning Board, until the matter reaches final disposition. In the event that final disposition of the matter is to approve the designation, permits may thereafter only be issued for work in compliance with this section.
- (f) Quasi-judicial hearings. All public hearings on designation shall be quasi-judicial and shall be conducted subject to the Town's procedures for quasi-judicial hearings.
- (g) Appeal. A decision of the Town Commission on designation may be appealed to a court of competent jurisdiction subject to the appropriate rules of procedure for that court. The hold on the *building* permit shall not dissolve until such time as a final decision is made, including any subsequent appeals available under general law.

3. Certificate of Appropriateness. A certificate of appropriateness (COA) shall be required prior to the issuance of any permit for new construction, demolition, alteration, rehabilitation, renovation, restoration, signage or any other physical modification affecting any *building*, *structure*, improvement, *landscape* feature, public interior or site individually designated in accordance with this section. In granting a certificate of appropriateness, the planning department may prescribe appropriate conditions and safeguards, either as part of a written order or on approved plans. Violation of such conditions and safeguards, when made a part of the terms under which the certificate of appropriateness is granted, shall be deemed a violation of these land development *regulations*.

(a) An application for a certificate of appropriateness may be filed with the Town Planner at the same time or in advance of the submission of an application for a *building* permit. Copies of all filed applications shall be made available for inspection by the general public.

(b) Applications shall, at a minimum, provide the information required for design review of commercial *structures* as set forth in this code, and shall include any additional, relevant information supporting the request.

(c) The Town Planner shall review the application and shall refer the application to any consultant whose review and opinion is considered advisable. In addition, where appropriate, the Town Planner may refer the application to the Miami-Dade County Office of Historic Preservation for their input. The Town Planner shall prepare a recommendation based on all relevant information and shall place the application on agenda of the Planning and Zoning Board within 60 days of the application submittal.

(d) Upon notice as required for design review/*site plan* of commercial *buildings*, the Planning and Zoning Board shall consider the application at a quasi-judicial public hearing, and may approve, approve with conditions, or deny the application after considering the following:

1. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable compliance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic *Buildings* as revised from time to time, and any other guidelines/policies/*plans* adopted or approved by resolution or ordinance by the Town Commission.

2. Compatibility with surrounding properties as determined by exterior architectural features, general design, scale, *massing* and arrangement, texture and material and color, relationship to other *structures* and features in the vicinity, and the original architectural design or any subsequent modifications that have acquired significance

3. Where the certificate of appropriateness is considered in connection with a request for relief available under Section 90-78, the *building* must

not be altered in a manner that substantially impacts the original *building* design or obscures the significant architectural elements in a manner that cannot be reversed without unreasonable expense, and significant exterior architectural characteristics, features, or details of the *building* remain intact. Any proposed alteration or addition must be designed in a manner that is compatible with the existing *building*.

(e) A decision of the Planning and Zoning Board may be appealed by the Town Manager or the applicant within 15 days of the decision. If no appeal is filed within 15 days of the Planning and Zoning Board decision, the decision shall be final. In the event of an appeal, the City Commission shall hold a quasi-judicial public hearing to consider the matter de novo under the applicable criteria and may approve, approve with conditions, or deny the application. A decision of the Town Commission on designation may be appealed to a court of competent jurisdiction subject to the appropriate rules of procedure for that court.

4. Maintenance and Demolition by Neglect. The owner of any *building*, *structure*, improvement, *landscape* feature, public interior or site individually designated in accordance with this section, whether vacant or inhabited, shall be required to properly maintain and preserve such *building* or *structure* in accordance with standards set forth in the applicable Florida *Building* Code, this article and this Code. For purposes of this section, demolition by *neglect* is defined as any failure to comply with the minimum required maintenance standards of this section, whether deliberate or inadvertent.

(a) Any *building* or *structure* designated as an *Architecturally Significant Building* shall be maintained according to minimum maintenance standards, preserved against decay, deterioration and demolition and shall be free from structural defects through prompt and corrective action to any physical defect which jeopardizes the *building's* historic, architectural and structural integrity; such defects shall include, but not be limited to, the following:

1. Deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially;
2. Deteriorated or inadequate foundations;
3. Defective or deteriorated flooring or floor supports or any structural members of insufficient size or strength to carry imposed loads with safety
4. Deteriorated *walls* or other vertical structural supports, or members of *walls*, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

5. Structural members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
6. Deteriorated or ineffective waterproofing of exterior *walls*, roofs, foundations or floors, including broken or missing windows or doors;
7. Defective or insufficient weather protection which jeopardizes the integrity of exterior or interior *walls*, roofs or foundation, including lack of paint or weathering due to lack of paint or other protective covering;
8. Any *structure* which is not properly secured and is accessible to the general public;
9. Any fault or defect in the property that renders it structurally unsafe or not properly watertight; or
10. The spalling of the concrete of any portion of the interior or exterior of the *building*.

(b) Notice, administrative enforcement and remedial action. If any designated *building* or *structure*, in the opinion of the Town Commission, Planning and Zoning Board, Town Manager, or the Town's Building Official, falls into a state of disrepair so as to potentially jeopardize its structural stability and/or architectural integrity, and/or the safety of the public and surrounding *structures*, or fails to satisfy any of the required minimum maintenance standards above, the Building Official shall have right of entry onto the subject property and may inspect the subject property after 48 hours' notice to the *owner* of intent to inspect. In the event the property *owner* refuses entry of any Town Official onto the subject property, the Town may file an appropriate action compelling the property *owner* to allow such officials access to the subject property for an inspection. Upon completion of the inspection of the subject property, a report delineating the findings of such inspection, as well as any remedial action required to address any violation of the required minimum maintenance standards, shall be transmitted to the property *owner*. The Town may require that the property *owner* retain a professional structural engineer, registered in the state, to complete a structural evaluation report to be submitted to the Town. Upon receipt of such report, the property *owner* shall immediately take steps to effect all necessary remedial and corrective actions to restore the *structure's* or *building's* compliance with the required minimum maintenance standards herein; remedial action in this regard shall include, but not be limited to, the structural shoring, stabilization and/or restoration of any or all exterior *walls*, including their original architectural details, interior loadbearing *walls*, columns and beams, roof trusses and framing, the blocking of openings and securing of existing windows and door openings, as well as sealing of the roof surface against leaks, including from holes, punctures, open stairwells, elevator shafts and mechanical systems roof penetrations as necessary to preserve the *building* or *structure* in good condition. The *owner*

shall substantially complete such remedial and corrective action within 30 days of receipt of the report, or within such time as deemed appropriate by the Building Official, in consultation with the Town Manager. Such time may be extended at the discretion of the Building Official, in consultation with the Town Manager.

(c) Injunction and remedial relief. If the *owner* of the subject property, in the opinion of the Building Official, fails to undertake and substantially complete the required remedial and corrective action within the specified time frame, the Town may, at the expense of the property *owner*, file an action seeking an injunction ordering the property *owner* to take the remedial and corrective action to restore the *structure's* or *building's* compliance with the required minimum maintenance standards herein and seeking civil penalties as herein provided; Such civil action may only be initiated at the discretion of the Town Manager or Town Commission. The court shall order an injunction providing such remedies if the Town proves that the property *owner* has violated the required minimum maintenance standards or any portion of this section.

(d) Civil penalties. Violation of this section, or of the terms of any certificate of appropriateness, shall be punishable by a civil penalty of up to \$5,000.00 per day, for each day that the remedial and corrective action is not taken.

(e) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any designated *building* or *structure* which does not involve a change of design, appearance or material, and which does not require a *building* permit or certificate of appropriateness. Any designated *building* or *structure* that is the subject of an application for a certificate of appropriateness for demolition shall not have its architectural features removed, destroyed or modified until and only if the certificate of appropriateness is granted. *Owners* of such property shall be required to maintain such properties in accordance with all applicable codes up to the time the *structure* is demolished.

(f) Vacant buildings and structures. The *owner* of any designated *building* or *structure* which is proposed to be vacated and closed, or is vacated and closed for a period of four weeks or more, shall make application for certificate of appropriateness approval and a *building* permit to secure and seal such *building* or *structure*. The *owner* or the *owner's* designated representative, shall notify the Town's Building Official and Town Manager, in writing of the proposed date of vacating such *building* or *structure*.

(g) Liens based on civil penalties. Any and all liens referenced or imposed hereafter, based on the foregoing provisions, shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved; the maximum rate of interest allowable by law shall accrue to such delinquent accounts. Such liens shall be enforced by any of the methods provided in Fla.

Stat. Ch. 86 or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in Florida Statutes, or may be foreclosed per Fla. Stat. Ch. 173, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The *owner* and/or operator shall pay all costs of collection, including reasonable attorney fees, incurred in the collection of fees, service charges, penalties and liens imposed by virtue of this section.

Secs. 90-276 — 90-283. Reserved.

Appendix A – previously approved *Design Guidelines*

ARTICLE I – GENERAL

- Sec. 90-1. General rules of construction.
- Sec. 90-2. Definitions.
- Sec. 90-3. Enforcement, interpretation, purpose and conflict.
- Sec. 90-4. Policy and objectives.
- Sec. ~~90-5. Interpretation, purpose, and conflict~~ 90-5. Reserved.
- 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 development.
- Sec. 90-13. Outstanding permits; Certificate of Use.
- Sec. 90-14. Relationship to the ~~comprehensive plan~~ Comprehensive Plan.
- Sec. 90-15. Projections into required yard areas.
- Sec. 90-16. Provision for storm drainage.
- Sec. 90-17. Zoning in progress, applicability, temporary hold on permits and licenses.
- Sec. 90-18. ~~Charges~~ for consulting services established.
- Sec. 90-19. ~~Escrow~~ accounts.
- Secs. 90-20 ~~— 90-36~~ 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.
- Secs. 90-41 ~~— 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. Powers and Duties.
- Sec. 90-56. Expenditures; indebtedness.
- Sec. 90-57. Reserved.
- Sec. 90-58. Zoning Applications; rules of procedure.
- Sec. 90-59. Review of building permits.

Sec. 90-60. Special meeting or special public hearing.
Sec. 90-61. Design Review.
Sec. 90-62. Single-family and duplex development review process.
Sec. 90-63. Development review requirements for submittal other than single-family and duplex.

Secs. 90-64 — 90-70. Reserved.

DIVISION 3. NONCONFORMING USES, LOTS AND STRUCTURES

Sec. 90-71. Nonconforming lots.
Sec. 90-72. ~~Reserved~~ Nonconforming use of land.
Sec. 90-73. Nonconforming use of buildings and/or accessory use of land.
Sec. 90-74. Discontinuance of nonconforming uses.
Sec. 90-~~74-1~~ 75. Discontinuance of nonconforming structure.
Sec. 90-~~75~~ 76. Destruction of a nonconforming use.
Sec. 90-~~76~~. ~~Existence of nonconforming use or structure.~~
~~Sec. 90-77.~~ Reserved.
Sec. 90-78. Alterations or enlargement of nonconforming structures.
Sec. 90-~~78~~ 79. Nonconforming uses not validated.
Secs. 90-~~79~~ — 80 - 90-~~89~~ 90. Reserved.

DIVISION 4. SPECIAL EXCEPTIONS, CONDITIONAL USES AND VARIANCES

Sec. 90-~~91~~. Special exception and conditional use.
Sec. 90-92. Conditional uses.-
Sec. 90-~~91~~. ~~Variances.~~
~~Sec. 90-92~~ 93. Special exceptions.
Sec. 90-~~94~~. Variances.
~~Sec. 90-93~~ 95. Lapse of special exception, conditional use, or variance.
~~Sec. 90-94. Special exception and conditional use permits.~~
Secs. 90-96 - 90-~~95~~ — ~~90-99~~ 101. Reserved.

DIVISION 5. – RESERVED

Secs. 90-~~100~~ — 102 - 90-~~120~~ 122. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 90-~~121~~ 123. Districts established.
Sec. 90-~~122~~ 124. Identification of district maps.
Sec. 90-~~123~~ 125. Interpretation of district boundaries.
Secs. 90-~~124~~ — 126 - 90-~~144~~ 146. Reserved.

ARTICLE IV. DISTRICT REGULATIONS

~~Sec. 90-145~~147. Regulated Uses.
~~Sec. 90-146~~148. Prohibited Uses.
~~Sec. 90-147~~149. Home office.
~~90-148~~. ~~Sec. 90-150~~. Reserved.
~~Sec. 90-149~~151. Short term rental of single-family dwellings, duplex dwellings, multi-family dwellings and townhomes.
~~Sec. 90-150~~152—~~90-154~~156. Reserved.

~~Sec. 90-155~~157. District regulations tables.
~~Sec. 90-156~~. ~~Rooftop photovoltaic solar systems~~158. H30A and H30B.
~~Secs. 90-157—159~~. H30C.
Sec. 90-160. H40.
Sec. 90-161. H120.
Sec. 90-162. SDB40.
Sec. 90-163. MU and CF.
~~Secs. 90-164 - 90-182~~. 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~~. Average setbacks for H30A and H30B.
~~Sec. 90-179~~. Modification of side and rear yard regulations.
~~Sec. 90-180~~. Maximum frontage and depth of buildings.
~~Sec. 90-181~~. Sec. 90-183. Vision clearance.
~~Sec. 90-182~~. ~~Accessory buildings and structures~~184. Rooftop Photovoltaic System.
~~Sec. 90-185~~. ~~Sec. 90-183~~. Fences, walls and hedges.
~~Sec. 90-184~~186. Marine structures.
~~Sec. 90-185~~187. Carports and car canopies.
~~Sec. 90-186~~188. Outdoor receiving and broadcasting antennae.
~~Sec. 90-187~~189. Construction adjacent to bulkhead lines.
~~Sec. 90-188~~. ~~Paving front yards in single-family and duplex districts~~190. Reserved.
~~Sec. 90-189~~191. Outdoor lighting.
~~Sec. 90-190~~192. Miscellaneous elevations for seawalls, and groins.
~~Sec. 90-191~~. ~~Combined lots~~.
~~Sec. 90-191.1~~193. Aggregation of lots.
~~Sec. 90-191.2~~. ~~Lot splitting in the H30A and H30B Districts Prohibited~~.
~~Sec. 90-192~~194. Boat parking.
~~Sec. 90-193~~195. Temporary storage of campers and house trailers.
~~Sec. 90-194~~. ~~Pervious Area~~.
~~Sec. 90-195~~. Reserved.
~~Sec. 90-196~~. Reserved.
Sec. 90-197. Reserved.

[Sec. 90-198](#). Emergency power generators.
Sec. 90-~~197~~[199](#). Awnings and canopies.
Sec. 90-~~198~~[200](#). Materials and finishes.
Sec. 90-~~199~~[201](#). Portable storage units.
Sec. 90-~~200~~[202](#). Accessory buildings and structures in the H30C, H40, SD-B40, and H120 districts.
Sec. 90-~~201~~[203](#). Service areas and mechanical equipment.
Sec. 90-~~202~~[204](#). Underground and above-ground utilities.
Sec. 90-~~203~~[205](#). Architecture.
Sec. 90-~~204~~[206](#). Roof deck provisions.
Sec. 90-~~205~~. ~~Reserved~~.
[207. Sustainability.](#)

DIVISION 2. SIGNS

Sec. 90-~~206~~-[208](#). General and miscellaneous provisions.
Sec. 90-~~207~~-[209](#). Definitions.
Sec. 90-~~208~~-[210](#). Sign permits.
Sec. 90-~~209~~-[211](#). Sign design and appearance.
Sec. 90-~~210~~-[212](#). Sign removal.
Sec. 90-~~211~~-[213](#). Permanent signs by district.
Sec. 90-~~212~~-[214](#). Temporary signs.
Sec. 90-~~213~~-[215](#). Prohibited signs.
Sec. 90-~~214~~-[216](#). Prohibited sign locations.
Sec. 90-~~215~~-[217](#). Non-~~conforming~~[Conforming](#) signs.
Sec. 90-~~216~~-[218](#). Non-complying signs.
Secs. 90-~~217~~-[219](#) - 90-~~225~~[227](#). Reserved.

DIVISION 3. OFF-STREET PARKING

Sec. 90-~~226~~[228](#). Off-street parking requirements.
Sec. 90-~~227~~[229](#). Interpretation of these requirements.
Sec. 90-~~228~~[230](#). Restricted and prohibited parking.
Sec. 90-~~229~~[231](#). Joint use and off-site facilities.
Sec. 90-~~230~~[232](#). Design standards for off-street parking.
[Sec. 90-233. Retention of off-street parking trust fund.](#)
Secs. ~~90-231~~ - 90-~~240~~[234](#) - 90-~~242~~. Reserved.

DIVISION 4.OFF-STREET LOADING

Sec. 90-~~241~~[243](#). Off-street loading requirements.
Sec. 90-~~242~~[244](#). Interpretation of the chart.
Sec. 90-~~243~~[245](#). Design standards for off-street loading.
Secs. 90-~~244~~-[246](#) - 90-~~249~~[251](#). Reserved.

DIVISION 5. LANDSCAPE

Sec. 90-~~250~~252. General.
Sec. 90-~~251~~253. Landscape permit plans.
Sec. 90-~~252~~254. Installation of landscaping and irrigation.
Sec. 90-~~253~~255. Maintenance of landscaped areas.
Sec. 90-~~254~~256. Plant material.
Sec. 90-~~255~~257. Vegetative provisions.
Sec. 90-~~256~~258. Landscape buffer areas between residential and non-residential properties and vehicular use areas.
Sec. 90-~~257~~259. Reserved.
Sec. 90-~~258~~260. Open space.
Sec. 90-~~259~~261. Landscape buffers.
Sec. 90-~~260~~262. Single-family H30A and H30B district landscape requirements.
Sec. 90-~~261~~263. Preparer's certification of landscape compliance.
Sec. 90-~~261~~264. Tree removal, tree relocation, tree preservation, and tree abuse.
Sec. 90-~~262~~265. Landscape manual and materials.
Secs. 90-266 – 90-272. ~~Sec. 263-269~~ Reserved.

ARTICLE VI. — ~~SPECIALIZED USE CONSIDERATIONS~~ — REASONABLE ACCOMMODATION AND RELIGIOUS LAND USE RELIEF PROCEDURES.

Sec. ~~Sec.~~ 90-~~270~~273. Religious land use relief procedures.
Sec. 90-~~271~~274. Reasonable accommodation procedures.
Sec. 90-~~272~~275. Architecturally Significant Buildings.
Secs. 90-~~273~~ — 276 - 90-~~279~~283. Reserved.

APPENDIX A – DESIGN GUIDELINES

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)~~(4) The word “lot” includes the word “plot”, “parcel”, “tract”, or “site.”, unless the context indicates otherwise.
- ~~(6)~~(5) The words “used” or “occupied” include the words “intended,” “designed” or “arranged” to be used or occupied.
- ~~(7)~~(6) The words “required yards” or “minimum required yards” and “*minimum yards*” ~~include~~refer to the word “area within a required setback.”.
- ~~(8)~~(7) Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning and customary usage.
- (8) Italicized terms shall be interpreted consistent with their definition in sections 90-2, 90-209, or 90-252.

[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 or capitalized throughout this ordinance.

- (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) —Acre: An area consisting of 43,560 square feet. Notwithstanding anything to the contrary herein and for purposes of this entire zoning code, an acre shall never be defined as anything other than 43,560 square feet.~~

~~(3)~~ ~~(3.1)~~ Acre: 43,560 square feet.

~~(4)~~ Aggregation: The combining of *lots* through a *unity of title* or the platting process. Where used to combine *density* or *floor area*, *aggregation* shall only be permitted where approved as a ~~Special Exception~~ special exception and only when a super majority of the Planning and Zoning Board, and the Surfside Commission has voted in the affirmative to approve ~~any~~ the requested *aggregation*.

~~(4)~~ (5) *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 and utilities.

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~~ Town, Miami-Dade County, or by the state.

~~(5)~~ (6) *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*.

~~(7)~~ ~~(5.1)~~ *Architecturally Significant Building*: A commercial *building* on Harding Avenue or any *hotel* or *multifamily* residence on Collins Avenue constructed prior to 1970 that has been determined by the ~~town~~ Town to

possess characteristics of a specific architectural style constructed in the ~~town~~Town pursuant to section 90-~~272~~275 of the Town Code. The exterior of the *structure* must be recognizable as an example of its style and/or period, and its architectural design integrity must not have been modified in a manner that cannot be reversed without unreasonable expense. The three recognized significant architectural styles in the Town are Mediterranean Revival, Streamline Moderne, and Miami Modern.

~~(6)~~(8) Reserved.

~~(7)~~(9) *Awning* means a detachable, roof-like cloth, canvas, vinyl, or other flexible material cover, supported from the *walls* of a *building* for protection from the sun or weather.

~~(8)~~(10) *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.

~~(9)~~(11) *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*.

~~(10)~~(12) *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.

~~(11)~~(13) *Building* means any *structure* having a roof supported by columns or *walls* for the shelter or enclosure of *persons* or property.

~~(12)~~(14) *Building Area*~~area~~ means the area within the confines of the exterior *walls* of the *main building*, *accessory buildings*, covered porches and terraces.

~~(13)~~(15) *Building, completely enclosed*, means a *building* having no outside openings, other than doors, windows, and ventilators.

~~(14)~~(16) *Building, height of*, ~~means the vertical distance from the crown of the road abutting the property to the roof, as more particularly set forth in the definition of~~see Height of Buildings or structures.

~~(15)~~(17) *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.

~~(16)~~(18) ~~Bulk is a term used in these regulations to describe~~Bulk describes 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*.

~~(19)~~ ~~(16.1)~~ ~~Business:~~

- (a) 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~~Town.
- (b) Does not include the customary activities of religious, charitable, nonprofit service clubs and organizations or educational nonprofit institutions as those terms are defined in F.S. ch. 205, as may be amended

~~(17)~~(20) 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, sinks, and 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. Permanent structures serving the purpose of cabanas or that provide toilet facilities shall be considered accessory buildings.~~ *Cabanas* shall be permitted only in conjunction with an outdoor *swimming pool*.

~~(18)~~(21) Canopy means a detachable, roof-like 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.

~~(22)~~ ~~(18.1)~~ ~~Car~~ Canopycanopy means a roofed and usually *wall-less* shed either freestanding or projecting from the side of a *building*, used as a shelter for automobiles. The roof of a *Car Canopy* may be made of vinyl, cloth, or other flexible material.

~~(19)~~(23) Carport means a permanent *structure* with a rigid roof that may or may not contain *walls* that is either freestanding or projecting from the side of a *building*, used as a shelter for automobiles.

~~(24) (19.1)~~ *Certificate of occupancy, final*: A document issued by the ~~town manager or designee~~ Town Building Official certifying that he/she reasonably believes a *building*, 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*. In lieu of a final certificate of occupancy, the Building Official may issue a temporary certificate of occupancy for a limited period of time provided all terms and conditions of all development approvals have been satisfied and upon additional terms and conditions deemed expedient for safe occupancy as determined by the Building Official.

~~(25) (19.2)~~ *Certificate of use*: A document issued by the ~~town manager~~ 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~~ Town Manager or designee.

~~(20)~~ (26) *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.

~~(21)~~ (27) *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.

~~(22)~~ (28) *Conditional use* means any *use* listed in section 90-~~41~~91 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.

~~(29)~~ ~~(22.1)~~ *Density*: The number of *dwelling units* per acre of land (43,560 square feet) of the ~~Lot Area~~ lot area as herein defined. The *density* allowed on a *site* shall never exceed the limits set forth in the 2004 Comprehensive ~~plan~~ Plan.

~~(30)~~ ~~(22.2)~~ *Design Guidelines* are guidelines adopted by the Town of Surfside Commission, intended to provide direction and options for all development, and to serve as criteria for design review of development within the Town. As set forth in section 90-61, such guidelines are adopted as an exhibit to this ordinance and may be amended from time to time by Resolution of the Town Commission.

~~(23)~~ ~~(31)~~ *District* means any section of the ~~town~~ Town within which the zoning *regulations* are uniform. ~~(See district map.)~~ section 90-124.

~~(24)~~ ~~(32)~~ *Dwelling* means a *building* or portion thereof, designed or used exclusively for residential occupancy.

~~(25)~~ ~~(33)~~ *Dwelling, single-family*, means a *building* designed for or occupied exclusively by one *family*.

~~(26)~~ ~~(34)~~ *Dwelling, two-family (duplex)*, means a *building* ~~designed for or occupied exclusively by two families~~ consisting of two dwelling units.

~~(27)~~ ~~(35)~~ *Dwelling, multiple-family, also known as multi-family* means a *building* ~~designed for or occupied by~~ consisting of three or more ~~families~~ dwelling units.

~~(28)~~ ~~(36)~~ *Dwelling unit* means a room, or group of rooms, occupied or intended to be occupied as separate living quarters by a *single family*.

~~(37)~~ ~~(28.1)~~ *Electric vehicle charging level*: The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged which include the following specifications:

~~(1)~~

1. Level 1 requires a 15 or 20-amp breaker on a 120-volt AC circuit and standard outlet;

2. ~~(2)~~ Level 2 requires 40 to 100-amp breaker on a 240-volt AC circuit;
or

3. ~~(3)~~ Level 3 requires a 60-amp or higher dedicated breaker on a 480-volt and higher three-phase circuit with special grounding equipment. A Level 3 charging shall use an off-board charger to provide the AC to DC conversion, delivering DC directly to the car battery.

~~(38)~~ ~~(28.2)~~ *Electric vehicle charging station*: A parking space that is served by ~~electric~~ Electric vehicle charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy source device in an electric vehicle.

~~(29)~~ ~~(39)~~ *Family*, in the context of the number of dwelling units permitted on a *lot of record*, 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 unit.

~~(30)~~ ~~(40)~~ *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.

~~(31)~~ ~~(41)~~ *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.

~~(32)~~ ~~(42)~~ *Floor Area* 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.

~~(33)~~(43) *Floor Area* ~~area~~ Ratio means the *floor area* of a *building* or *buildings* on any *lot* divided by the ~~Lot Area~~*lot area*.

~~(34)~~(44) *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*.

~~(35)~~(45) *Frontage, lot*, means the distance for which the *front lot* line and *street* line are coincident.

~~(36)~~(46) *Garage, parking*, means a *building* or portion thereof designed or used for the temporary storage of motor-driven vehicles.

~~(37)~~(47) *Garage, private*, means an ~~Accessory Building~~*accessory building* or attached portion of a *Building*, not exceeding 900 square feet in ~~Floor Area~~*floor area*, designed or used for the storage of not more than four automobiles.

~~(38)~~(48) *Grade* means the average datum or elevation of the crown of the road serving the *lot* or *building site*.

(49) ~~(38.1)~~ *Height of buildings or structures, also referred to as building height* shall be measured:

- a. ~~(a)~~ *For flat roofs*: The vertical distance from the average datum or elevation of the crown of the road fronting the *lot* or *building site*, to the highest point of the roof.
- b. ~~(b)~~ *For pitched roofs*: The vertical distance from the average datum or elevation of the crown of the road fronting the *lot* or *building site*, to the top of the tie beam. A *pitched roof* shall have a maximum pitch of 4/12.

Any roof that ~~is~~does not meet the definition of a *pitched roof* shall be considered a *flat roof*.

For the H120 district only, the maximum building height of 120 feet is measured from the elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The maximum building height shall not exceed +136.63 NAVD88 (or +138.2 NGVD29).

~~(39)~~(50) 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 provided no facilities for service or basing of such aircraft are permitted.

~~(40)~~(51) 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 a separate utility meters~~meter~~ serving any room or group of rooms shall be deemed sufficient to classify such room or group of rooms as an *apartment*.

~~(40.1)~~(52) Impervious Area~~area~~: An *area* covered by a material which does not permit infiltration or percolation of water directly into the ground

~~(41)~~(53) Indian Creek Bulkhead Line means the ~~bulkhead line~~Bulkhead Line as defined in section 14-101.

~~(42)~~(54) Loading Space~~space~~ means a space within the *main building* or on the same *lot* providing for the standing, loading, or unloading of trucks.

~~(43)~~(55) 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.

~~(44)~~(56) Lot Area~~area or net lot area~~ means the total horizontal *area* within the *lot* lines of the *lot*. ~~In determining usable lot~~Lot *area* in the ~~H-120~~H120

~~district, it~~ shall be calculated ~~from~~ based on the area bounded by the west, north, and south lot line to lines and the ~~bulkhead line~~ Bulkhead Line on the east ~~side~~. The area between the erosion control line and the north lot line Bulkhead Line shall ~~not~~ be ~~the north boundary and the south lot line shall be counted as part of the south boundary~~. ~~All calculations~~ lot area for calculation of ~~density and/or intensity shall be based on the Lot Area as herein defined, lot coverage, or any other zoning calculation~~.

~~(45)~~ (57) Lot, corner, means a *lot* abutting upon two or more *streets* at their intersection.

~~(46)~~ (58) Lot Coverage coverage means the percentage of the *Lot Area* area that, when viewed from above, would be covered by all principal and accessory *buildings and structures* (except *swimming pools, fences, screen enclosures, and pergolas* ~~), or portions thereof, up~~. In the H30A and H30B single family districts, the lot coverage is limited to a maximum forty percent (40%) of the *lot*; provided however that the following exemptions shall not be included in determining the *lot coverage*:

- a. Uncovered steps and exterior balconies; and
- b. Uncovered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides; and
- c. Covered terraces, patios, *breezeways*, or porches which are open on two (2) or more sides; ~~and~~.

In no instance may the ~~total area of~~ sum of the lot coverage and all exemptions permitted by (a) through (c) listed above exceed ~~64~~ 8% of the ~~Lot Area~~ lot area.

For avoidance of doubt, architectural elements extending beyond the vertical plan of exterior walls, such as roof eaves, shall not be counted as lot coverage.

~~(47)~~ (59) 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~~ Bulkhead Line along the waterway.

~~(48)~~ (60) 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~~.

~~(49)~~ (61) Lot, interior, means a *lot* other than a *corner lot*.

~~(50)~~ (62) Lot of Record record means a *lot* which is part of a subdivision, the map of which has been recorded in the ~~office~~ Office of the ~~clerk~~ 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.

~~(51)~~(63) Lot, through (double-frontage), means a *lot* having a frontage on two ~~parallel or approximately parallel streets or places~~ that do not intersect adjacent to the lot.

~~(52)~~(64) 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.

(65) ~~(52.1)~~ Marijuana: Any strain of cannabis or *marijuana*, in any form, that is authorized by state law to be dispensed or sold in the State of Florida. Also referred to as "*medical marijuana*"

(66) ~~(52.2)~~ Massing: The expression of interior volume as exterior form.

~~(52.3)~~

(67) Medical marijuana dispensary: A retail establishment, licensed by the Florida Department of Health as a "*medical marijuana* treatment facility," "*medical marijuana* treatment center," "dispensing organization," "dispensing organization facility" or similar use, that sells and dispenses *medical marijuana*.

(68) NAVD88 means North American Vertical Datum of 1988, a vertical control datum. 0 NAVD88 is equal to +1.57 NGVD29.

(69) NGVD29 means National Geodetic Vertical Datum of 1929, a vertical control datum. +1.57 NGVD29 is equal to 0 NAVD88.

~~(53)~~(70) Nonconforming Lot means a *Lot* of ~~Record~~record which was legally established as a separate *building site* 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. A *Nonconforming Lot* may only be improved if it meets the conditions and requirements of Section 90-71.

~~(54)~~(71) Nonconforming ~~Structure~~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)~~(72) Nonconforming ~~Use~~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)~~(73) Ocean Bulkhead Line means that ~~bulkhead line~~Bulkhead Line as defined in section 14-86.

~~(57)~~(74) 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, wash racks or accessories are sold or no other *business* conducted.

~~(58)~~(75) Parking space, off-street, means a paved *area* not in the *street*, *alley*, or any other public property, ~~and having an area of not less than nine feet by 20 feet, exclusive of driveways~~meeting the minimum requirements of section 90-232, 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~~.

~~(76)~~ ~~(58.1)~~ Person means 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.

~~(77)~~ ~~(58.2)~~ Pervious area means an *area* maintained as *landscaping* (as that term is defined in Division 5 of Article V of this code, or covered by a Town- approved 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*.

~~(78)~~ ~~(58.3)~~ Place of business: Any *structure* used for the purpose of exercising the privilege of engaging in *business* within the ~~town~~Town limits.

~~(58.4)~~

(79) *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.

~~(58.5)~~

(80) *Public ~~School~~ school*: A school operated by a governmental agency or jurisdiction, or a charter school established pursuant to Section 1002.33, Florida Statutes.

~~(59)~~(81) *Regulations* means the whole body of *regulations*, text, charts, tables, diagrams, maps, notations, references and symbols, contained or referred to in this chapter.

~~(60)~~(82) *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.

(83) ~~(60.1)~~ *Roof deck*: An open, unroofed floor *structure* used in conjunction with a ~~principal~~main *building* and installed on the roof of the highest floor in ~~a~~the main *building*.

(84) ~~(60.2)~~ *Roof terrace*: an open, unroofed floor structure used in conjunction with a main building and installed on the roof of any floor other than the highest floor in the main building.

(85) *Rooftop photovoltaic solar system*: A system which uses one (1) or more photovoltaic panels installed on the surface of a roof, parallel to a sloped roof or surface- or rack-mounted on a *flat roof*, to convert sunlight into electricity.

(86) ~~(60.3)~~ *Secondary ~~Frontage~~ frontage*: When referring to a *corner lot*, the *secondary frontage* shall be the widest portion of the *lot* abutting the *street*.

~~(64)~~(87) *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)~~(88) Setback means the minimum distance ~~required by section 90-455~~ for lots within a given district that all *structures* shall be from front, side and rear *lot* lines. *Setback* may also refer to the *yard area* adjacent to the particular *lot* line indicated, consistent with the definitions for *front yard setback*, *rear yard setback*, and *side yard setback* below. In this context, the words “in,” “inside,” and “within” refer to the *area* that is less than the minimum distance from the front, side, or rear *lot* line. “Outside” refers to the *area* that is located at a greater distance than the minimum distance from the front, side, or rear *lot* line. Setbacks create an open volume that extends from grade upwards through the height of the building and any accessory structures or uses permitted above the height of the building.

(89) ~~(62.1)~~ Setback, front yard or front setback means the portion of a *yard* across the full width of the *lot* extending from the front property line to the front *setback*.

(90) ~~(62.2)~~ Setback, rear yard or rear setback means the portion of a *yard* across the full width of the *lot* extending from the rear property line to the rear *setback line, or for oceanfront lots, from the bulkhead line to the rear setback line.*

(91) ~~(62.3)~~ Setback, side yard or side setback means the portion of a *yard* between the side property line and the side *setback*, located between the front and rear *setbacks*.

~~(63)~~(92) 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.

~~(64)~~(93) 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. Portions of the building beneath the first finished, habitable floor shall not be considered a story provided they are limited to a basement or other area that consists primarily of non-habitable, non-finished space devoted to off-street parking, storage, or recreational amenities, but may include a small habitable enclosure to provide access to the building, such as a lobby, foyer, or vestibule that does not exceed 10% of the floor area of the first finished floor.

~~(65)~~(94) Street means a public thoroughfare which affords the principal means of access to abutting property.

~~(66)~~(95) Streetline means a dividing line between a *lot* and the adjacent *street*. See also lot frontage.

~~(67)~~(96) 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.

~~(68)~~(97) Structural alterations means any change that would change the shape or size of any portion of the exterior of the *building* or *structure*, ~~for~~ any work affecting the supporting members of a *building* or *structure*, such as bearing *walls*, columns, beams, arches, floor or roof joists, or girders.

(98) ~~(68.1)~~ Substantial improvement: Any combination of repairs, reconstruction, alteration or improvements to a *building*, taking place during a five-year period, in which the cumulative cost equals or exceeds 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; (as may be adjusted pursuant to applicable law);
2. ~~(2)~~ Such other value as approved by the federal government or the state; or
3. ~~(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.

~~(69)~~(99) 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; 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.

- 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 only if said units are larger than: 800 square feet for units with one bedroom or less, 1,000 square feet for two-bedroom units, and 1,200 square feet for three-bedroom units. For every bedroom over three bedrooms in a unit, the minimum size shall increase by -200 square feet.

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

~~(70)~~(100) *Swimming pool* means any permanent *structure* containing a body of water intended for recreational purposes, including a wading pool.

~~(71)~~(101) *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.

~~(102)~~ ~~(71.1)~~ *Unity of Title*title: An agreement executed by and between one or more property *owners* of more than one *lot*, which shall not be conveyed, sold, mortgaged, etc. apart from each other and shall be held together as one *tract*. Such *unity of title* shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property *owner(s)*, successors and assigns.

~~(72)~~(103) *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.

~~(73)~~(104) *Wall*. A *wall*, when used as a *site* feature, shall be so constructed that no less than 50 percent of the vertical surface above a height two feet from grade is open to permit the transmission of light, air and vision through such surface in a horizontal plane.

~~(74)~~(105) *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*. The term yard is a synonym for setback.

~~(75)~~(106) Yard, front, means the portion of a yard across the full width of the *lot* extending from the front property line ~~of the building~~ to the front ~~street line of the lot~~setback.

~~(76)~~(107) Yard, rear, means the portion of a yard ~~extending across~~ the full width of the *lot* ~~between the main building and~~extending from the rear ~~lot setback to the rear property line~~, or the ~~bulkhead line for waterfront properties, or the bulkhead line~~Bulkhead Line for oceanfront properties.

~~(77)~~(108) Yard, side, means the portion of a yard ~~on the same lot with the building~~ between the ~~main building~~side property line and the ~~adjacent side of the lot, and extending from~~side setback, located between the front yard to the ~~and rear yard thereof~~setbacks.

[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. Enforcement, interpretation, purpose and conflict.

(1) The ~~town manager~~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~~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~~Town Manager or designee, the provisions of this Code may be enforced by the Surfside Police Department if appropriate.

(4) Further, the ~~town commission~~Town Commission may direct the ~~town attorney~~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.

(7) Where a formal written determination is made by the Town Planner pursuant to a written request from a member of the public, such interpretation shall be filed with the Clerk and maintained by the Town Planner in an official register of formal determinations.

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~~ 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~~ 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*, massing, 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~~ Reserved.

~~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.~~

~~[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~~*exception* within the *district* in which the *building* or land is located. Permitted *uses* require final *site plan* review and/or design review approval, as set forth in these *regulations* and approval for compliance with the standards applicable to a particular permitted *use* as provided in this Zoning Code. 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. 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~~Town's adopted ~~comprehensive plan~~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 SD-B40 and the H120 *districts*, all properties additionally shall have their *street* numbers displayed and clearly visible from the rear of the property.

(10) No *building* that requires a permit to place excavated sand seaward of the coastal construction control line shall be erected or moved unless applicant has complied with sections 34-2 to 34-8 and section 14-28 of the Town Code of Ordinances.

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

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

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~~full kitchen shall be provided on each lot. This limitation shall not prohibit an additional Passover kitchen, outdoor summer kitchen, meat freezer, or similar accessory kitchen facility area that does not exceed 25 square feet and, when located indoors, cannot be accessed directly from the outside or closed off from the rest of the single family dwelling.

[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 1~~the applicable district regulations, 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~~[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~~[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 development.

Nothing herein shall prohibit development and *use* authorized by a valid zoning approval issued prior to the effective date of the ordinance from which this chapter was derived, so long as (a) the subject property *owner* is in continuing timely compliance with all conditions of the zoning approval; (b) required *building* permits are obtained prior to the expiration of such zoning approvals; (c) construction pursuant to said *building* permits proceeds in an expedient manner; and (d) the master *building* permit does not lapse, expire, or is terminated by the Town Building Official. If (a) a zoning approval expires prior to obtaining a *building* permit; or (b) the conditions of approval are violated or not timely met; or (c) the master *building* permit for construction in furtherance of the zoning approval expires or is terminated by the Town Building Official, the zoning approval shall be null and void and thereafter, development of the *site* shall conform to this code irrespective of the terms of the previous zoning approval.

[Code 1960, § 18-13]

Sec. 90-13. Outstanding permits; [Certificate of Use](#).

- (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 does not conform to the requirements of this chapter, such permits shall be valid and may be completed and used in accordance with the plans and specifications upon which such *building* permit was granted, provided construction authorized by such permits proceeds expeditiously and the master *building* permit does not expire or is terminated by the Town Building Official.

(b) Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid zoning approvals, authorizing the *use* of land or *buildings* without construction work, and where such *use* is not permissible under the terms of this chapter, such zoning approvals shall be rendered void unless the *use* is implemented and in actual operation pursuant to a valid certificate of use prior to the date the zoning approval expires and the subject property owner is in continuing timely compliance with all conditions of the zoning approval ~~and~~ certificate of use. Any *use* not voided by operation of this section shall be considered a legal *nonconforming use* subject to Division 3 of this Code.

[Code 1960, § 18-14]

Sec. 90-14. Relationship to the ~~comprehensive plan~~ 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~~ 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~~ yard, except as provided in ~~section 90-177~~ Articles IV and V.

[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 of the Town Code regarding storm drainage management. Such requirements shall apply to all *Accessory Buildings* or *Structures* or *uses* serving such *Structures*.

[Code 1960, § 18-17]

Sec. 90-17. Zoning in progress, applicability, temporary hold on permits and licenses

(1) Purpose. The zoning in progress doctrine (“zoning in progress”) allows the ~~town~~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. currently in process or development applications submitted prior to enactment of changes to zoning regulations. Additionally, ~~the~~ zoning in progress allows a temporary hold on applications for permits and licenses if there is a change in zoning, which is already in progress that would affect the permit of 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 apply 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~~Town after the cut-off date established in paragraph (3) below. Upon the adoption of any impact fees, all applicants will be responsible for the remittance of same to the ~~town~~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~~Town Commission.

(3) Future amendments to zoning regulations. When the Town is considering an amendment to the zoning regulations or the zoning map, the ~~town~~Town may impose a temporary hold on any development applications pending before the ~~town~~Town with respect to 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~~Town (the “cut-off date”) 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~~Town Commission or for a period of three months, whichever is sooner. The temporary hold shall not apply to development applications that conform with the more restrictive of the existing zoning text or map designation or the proposed zoning text or map designation. An affected *person* may appeal the ~~town~~Town staff’s application of this provision to the ~~town-commission~~Town Commission for review by the ~~town-commission~~Town Commission by filing a notice with the ~~town-manager~~Town Manager.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-18.— Charges for consulting services established.

(1) Except for applications by a *single-family* homeowner in the H30A and H30B *districts*, the ~~town-manager~~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~~Town as the ~~manager~~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~~Town and such consultant. Charges made by the ~~town~~Town shall be in accord with the hourly rates charged by such consultants or hourly rates of employed professionals and shall be paid on submission of a ~~town~~Town invoice.

(2) Unless prohibited by law, the applicant shall reimburse the ~~town~~Town for the cost of such consultant or employed professional services upon submission of a copy of the invoice, within 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-19. —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~~Town for the cost of professional review services. The applicant shall then provide funds to the ~~town~~Town for deposit into such account in an amount to be determined by the ~~town-manager~~Town Manager, based on evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any ~~town~~Town invoice for such services as they are submitted to the ~~town~~Town. When the balance in such escrow is reduced to one-third 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 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the ~~town~~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~~Town. Once all pertinent charges have been paid, the ~~town~~Town shall refund to the applicant any funds remaining on deposit.

Secs. 90-20 — 90-~~36~~35. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1.GENERALLY

Sec. 90-36. Comprehensive ~~plan~~Plan.

All development undertaken by and all actions taken in regard to development orders concerning land covered by the ~~comprehensive plan~~Comprehensive Plan shall be consistent with such plan. All land development *regulations* enacted or amended shall be consistent with the ~~comprehensive plan~~Comprehensive Plan.

[Code 1960, § 18-92]

[State law references: Adoption and amendment of ~~comprehensive plan~~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, demolished, extended or enlarged without the *owner* or *owners* first having obtained a permit therefor from the ~~town manager~~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 from the last documented activity on the permit.

(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, signed, and sealed 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~~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~~Town Planner and the ~~planning~~Planning and ~~zoning-board~~Zoning Board, for compliance with this chapter shall be required. Applicant shall, with the filing of such request, pay all applicable fees as provided in the ~~town's~~Town's schedule of fees.

(5) A *plot* plan showing provisions for adequate drainage where required.

(6) A rendering showing details of materials to be used on the exterior of the *building*.

(7) A detailed *landscaping* plan, prepared by a registered *landscape* architect, including scale demonstrating actual size of plants to be used.

(c) ~~No permit~~ A property owner shall ~~be issued~~ provide notice of an application for ~~the complete~~ demolition of the sole building on ~~permit to all abutting owners no less than seven (7) days prior to initiating demolition pursuant to a lot unless the applicant has obtained a building~~ validly issued ~~permit for construction of a new building on the lot.~~

[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~~Town Manager for transmittal to the appropriate ~~town-board~~Town Board and ~~commission~~Commission. Such *site plan* shall contain all information required by the ~~town~~Town to determine compliance with the provisions of these *regulations*. Where required by other applicable laws, such *site plan* shall be prepared, signed and sealed 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~~Town Manager shall be prepared that will include and show, were 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~~Town may require to fully describe and evaluate the particular *use* or activity proposed.

The ~~town-manager~~Town Manager shall have the right to waive submission of any of the items required herein if, in the ~~town-manager's~~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~~certificate of ~~Occupancy~~occupancy shall have been issued by the ~~town-building official~~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~~certificate of ~~Occupancy~~occupancy and compliance shall have been issued by the ~~town-building official~~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~~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~~Town Manager.
- (d) Compliance with conditions placed on any development approvals shall be due prior to the issuance of any type of certificate of occupancy, including a Temporary certificate of occupancy, unless some other date or milestone is expressly identified in the development approval.

[Code 1960, § 18-78]

Sec. 90-40. Changes and amendments.

- (a) Changes and amendments. The ~~town-commission~~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~~Town Commission and disapproved or failed of passage, such proposed change, in the same or ~~substantial~~substantially similar form, shall not be reconsidered by the ~~town~~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~~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~~Town Manager or a member of the ~~town-commission~~Town Commission, sooner than one year after date established for the prior hearing. Filing fees shall not be refunded upon withdrawal.
- (d) Adoption method for land use and zoning map changes. Applications for amendments to the land use map and rezonings shall be adjudicated through the same procedures as required for ordinance adoption ~~as~~required by law.
- (e) Zoning change criteria. Application for zoning change review criteria. In order to approve an application for zoning change the ~~town-commission~~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.~~1. The zoning change is consistent with the ~~comprehensive plan~~Comprehensive Plan;
 - ~~b.~~2. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the *site*;
 - ~~c.~~3. The resulting boundaries of the zoning *district* are logically drawn;
 - ~~d.~~4. The proposed change will not reduce property values in the ~~town~~Town;
 - ~~e.~~5. The proposed change will enhance the quality of life in the ~~town~~Town; and
 - ~~f.~~6. There are substantial and compelling reasons why the proposed change is in the best interests of the ~~town~~Town.

[Code 1960, § 18-79]

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

Secs. 90-41-90-50. Reserved.

DRAFT

DIVISION 2.PLANNING AND ZONING BOARD

Sec. 90-51. Created.

There is created a ~~town-planning~~Town Planning and ~~zoning-board~~Zoning Board.

[Code 1960, § 18-32]

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

The ~~planning~~Planning and ~~zoning-board~~Zoning Board shall consist of five members and a first alternate member and a second alternate member. The term of each appointment shall be for a period of two years. Each member of the ~~commission~~Commission shall be entitled to one appointment to the board, subject to the approval of a majority of the ~~commission~~Commission; any member of the ~~commission~~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~~Commission. Any member may be removed and replaced, with or without cause, by a majority vote of the ~~town-commission~~Town Commission. The first and second alternates shall be appointed at-large by the majority vote of the Commission present at the meeting. The term of each board member and alternate appointment shall begin on the last Thursday of April of the year in which the board member or alternate is appointed and end when a successor is appointed or on the last Thursday in April, whichever dates comes first. One board member or one alternate member appointed shall have education and/or experience in sustainability and resiliency, which may include environmental science. At least three of the members or alternates must be one of the following:

1. ~~4.~~—Florida-licensed general contractor or a construction management professional with at least three years of professional experience as a construction project manager, construction superintendent or construction estimator;
2. ~~2.~~—Florida licensed PE or a civil, mechanical, electrical, chemical or environmental engineer with a baccalaureate degree in engineering and three years of professional experience;
3. ~~3.~~—Certified planner (AICP) or a planning professional with a graduate degree in planning from a program accredited by the Planning Accreditation Board with at least three years of professional planning experience or a bachelor's degree in planning from a program, accredited by the Planning Accreditation Board (PAB) with at least three years of professional planning experience;
4. ~~4.~~—Florida-licensed *landscape* architect with at least three years of professional experience;
5. ~~5.~~—Registered interior designer with at least three years of professional experience;

6. ~~6.~~—Florida-licensed attorney with at least three years of professional experience; or

7. ~~7.~~—Florida-licensed architect.

(a) 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.

(b) The board year shall commence on the last ~~Tuesday~~Thursday of April in each year. Regular meetings of the board shall be held on the last ~~Tuesday~~Thursday 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.

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

(d) Meetings of the board may be held in the ~~town~~Town hall or community center, or virtually when otherwise permitted by law or emergency order. Special meetings must be called by the chairman upon approval of a quorum. Records shall be kept of all proceedings.

(e) Alternate participation: Alternates shall be subject to the same attendance and participation requirements as members. Alternates may participate in all board discussions but may not vote unless sitting as a substitute for a member. In the event a member is absent or unable to participate in an item before the board, the first alternate or if the first alternate is unavailable, the second alternate, shall fill the absent or recused member's position for the duration of that member's absence.

(f) A vacancy shall exist: (1) on the date that any member or alternate ceases to possess the minimum required membership qualifications provided herein; (2) when a board member or alternate has been absent from three consecutive regularly convened board meetings or has been absent from five regularly convened board meetings within a board year; or (3) for members if the appointing ~~commissioner~~Commissioner resigns or his position otherwise becomes vacant during his/her term. Vacancies on the ~~planning~~Planning and ~~zoning-board~~Zoning Board shall be filled by appointment for the unexpired term in the same manner as original appointments are made, provided however if the seat shall remain vacant longer than a three-month period for any reason, the ~~town-commission~~Town

Commission may collectively, by majority vote, appoint a temporary member until such ~~commission~~Commission position is filled in accordance with the Town Charter and Code. 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~~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~~Town Commission.

(g) Removal: At any time that the Town Commission determines that one or more board members are not acting in the best interests of the Town's residents, it may vote to remove said board member (s) and replace in the manner set forth for filling vacancies in subsection (f) above.

(h) Officers: The board shall elect one of its members as chairman and one 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 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~~Town Commission, by and through the chairman, vice-chairman or the ~~town-commission~~Town Commission liaison member. The ~~town~~Town shall provide a secretary for the board and the ~~town-clerk~~Town Clerk shall be custodian of all records, books and journals of the board.

(i) Expenditures; indebtedness: The ~~town-commission~~Town Commission may authorize the expenditure by the ~~planning~~Planning and ~~zoning-board~~Zoning Board of such funds as the ~~town-commission~~Town Commission may deem necessary to perform the requirements of this chapter. The ~~town-commission~~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~~Commission approval.

[Code 1960, § 18-83]

Sec. 90-53. Officers.

One member shall be elected by the ~~planning~~Planning and ~~zoning-board~~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~~Town Commission all reports and

recommendations of the ~~planning~~Planning and ~~zoning-board~~Zoning Board. The ~~town~~Town shall provide a secretary for the board and the ~~town-clerk~~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~~Planning and ~~zoning-board~~Zoning Board will submit its recommendations to the ~~town-commission~~Town Commission, by and through the chairman or vice-chairman.

[Code 1960, § 18-85]

Sec. 90-55. Power and duties

(1) Zoning matters: The ~~planning~~Planning and ~~zoning-board~~Zoning Board shall act as an advisory board to the ~~town-commission~~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~~planningComprehensive Planning and land development *regulations* (F.S. Ch. 163);

(b) To review and make recommendations to the ~~town-manager~~Town Manager and the ~~town-commission~~Town Commission regarding the adopting and amendment of the official zoning map; the land development *regulations* amendments; zoning *district* boundary changes; and ~~comprehensive-plan~~Comprehensive Plan amendments. 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~~Town Commission may act upon adoption without such recommendation;

(c) To review and make recommendations to the ~~town-commission~~Town Commission, on applications pertaining to *site plans* (if applicable) zoning changes, special exceptions, *conditional uses*, variances, and any other zoning applications;

(d) To conduct such studies and investigations required under the Town Code and/or requested by the ~~town-commission~~Town Commission and as needed from time to time to sit in a joint session with the ~~town~~

~~commission~~Town Commission as requested by the ~~town~~
~~commission~~Town Commission; and

(e) The ~~planning~~Planning and ~~zoning-board~~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~~Town limits on the terms outlined below.

(3) FEMA review: The Planning and Zoning Board shall act as the variance and appeals board pursuant Chapter 42, "Floods

[(Ord. No. 1524, § 2, 6-09-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 18-1689 , § 2, 9-12-18)]

Sec. 90-56. Expenditures; indebtedness.

The Town Commission may authorize the expenditure by the ~~planning~~Planning and ~~zoning-board~~Zoning Board of such funds as the ~~commission~~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~~Commission approval.

[Code 1960, § 18-87]

Sec. 90-57. Reserved

[Code 1960, § 18-88]

Sec. 90-58. Zoning Applications; rules of procedure.

The following rules shall govern procedure on all applications for zoning changes, special exceptions, *conditional uses*, variances, and/or design review/*site plan* approval pursuant to Section 90-63:

(1) All applications shall be submitted to the ~~planning~~Planning and ~~zoning-board~~Zoning Board on the prescribed form and accompanied with the prescribed fee(s) as listed in the Town's adopted schedule of fees. The ~~planning-and-zoning-board~~application shall be ~~required-to-meet-and-hold~~placed on a Planning and Zoning Board agenda for public hearing not later than 45 days after receipt of a complete application for zoning change, special exception, *conditional use*, or

variance request. The board shall make its views and recommendations known to the ~~town-commission~~Town Commission for the ~~town-commission's~~Town Commission's final determination. If the board fails to ~~take action-consider the application~~ within the prescribed time, the ~~commission~~Commission shall assume its duties. The Planning and Zoning Board may defer the application for further consideration for a period not to exceed 60 days, but thereafter must take action on the application.

(2) A public hearing shall be advertised at least once in a local newspaper of general circulation and publicly posted in the ~~town~~Town hall as required by Florida Statute. Written courtesy notices shall be sent at the *applicant's* expense by first class mail, return receipt requested, to affected property *owners* within a radius of 375 feet at least ten (10) days before the hearing. 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 family dwelling," "meat market" rather than "SDB40" or "*business zoning*." Such notice shall be approved by the ~~town-planner~~Town Planner prior to mailing and proof of such mailing shall be submitted to the Town prior to the hearing.

(3) 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:

REQUEST FOR: _____: [INSERT PLAIN LANGUAGE DESCRIPTION OF APPLICATION REQUEST]

PLANNING AND ZONING BOARD/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~~ CLERK OR CHECKING THE TOWN'S PLANNING & ZONING WEBSITE AT [INSERT CURRENT TOWN WEBSITE].

You are encouraged to attend the meeting or otherwise provide your comments in writing

to the Town Clerk prior to the meeting

(Yellow background/black letters)

Such notice shall be posted by the applicant, at its expense, not less than ten (10) days prior to such hearing, and shall be removed the notice three days after the appropriate board takes final action regarding the application.

(4) ~~A posted notice~~All notices shall contain the requested ~~use change~~zoning approval including a description of the proposed development in laymen's language ~~as in accord with~~ subsection (3) of this section ~~-(i.e. "Variance to allow a setback of 5 feet from the north side where 10 feet is required for a three story multifamily building at 89xx Harding Avenue")~~. Posted notice shall be of standard size in standard colors, approved by ~~town manager~~Town Manager 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 variances, *conditional uses* and special exceptions shall follow ~~-, substantially, the same procedure as applications for zoning changes~~ this section and the applicable requirements of Division 4 of this Article II.

(7) A copy of each variance, special exception, *conditional use*, *site plan* approval, or zoning change and ordinance affecting change in this chapter shall be filed with the Clerk.

(8) Compliance with conditions placed on any development approvals shall be due prior to the issuance of any type of certificate of occupancy, including a temporary certificate of occupancy, unless some other date or milestone is expressly identified in the development approval.

[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~~structures, additions or exterior changes which affect the exterior dimensions of any ~~Structure~~structure, together with any applicable detailed plans, specifications and *plot* plans, shall be submitted to the ~~planning~~Planning and ~~zoning board~~Zoning Board for its review and recommendations as provided in section 90-61.

(b) To assure that the architectural design shall be in harmony with the architecture of the neighborhood, the ~~planning~~Planning and ~~zoning board~~Zoning Board shall suggest such changes in the design of the ~~structure to preserve structures and property that are consistent with this code and the traditional aesthetic treatment and excellence of design of the community~~Design Guidelines. 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*-, and any other structure or improvement on the premises.

(b)

[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~~Planning and Zoning Board or Town Commission should call a special meeting or special public hearing other than specifically required by this chapter, the applicant shall thereupon pay the appropriate fee for such meeting set forth in the ~~town's~~Town's adopted fee schedule to help defray the costs and expenses of calling the special meeting or special public hearing. The applicant shall also pay any other applicable fees as listed in the ~~town's~~Town's adopted fee schedule. Nothing contained in this section shall obligate or require the ~~planning~~Planning and ~~zoning board~~Zoning Board to call a special meeting or special public hearing except as may be provided in this chapter.

[Code 1960, § 18-91]

Sec. 90-61. Design Review

The design review process is set forth as follows:

(a) Design review process.

(1) Purpose. This section is intended to promote excellence in architectural and urban design; preservation of the ~~town's~~Town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, the ~~planning~~Planning and ~~zoning board~~Zoning Board shall review and evaluate applications as to whether the design of new developments and/or improvements within the ~~town~~Town are consistent with and in conformance with the ~~design guidelines~~Design Guidelines set forth in the Town Code. The ~~design guidelines~~Design Guidelines are attached hereto as Exhibit A [at the end of this chapter] provided that the ~~town commission~~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.

i. All applications for *new developments* or improvements that are subject to the Town's ~~Adopted design guidelines~~adopted Design Guidelines shall be referred to the ~~planning~~Planning and ~~zoning board~~Zoning Board for review and consideration.

ii. The board shall review each application whether for development of *single-family, multifamily*, commercial or other *districts* for conformity with the ~~town's~~Town's adopted ~~design guidelines~~Design Guidelines and approve, approve with conditions, or disapprove the design

review application. With regard to the design review process, no applicant shall be required to appear before the board more than twice per application.

iii. 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~~[Town](#) designated fee schedule.

(4) Design review applications which are made in conjunction with other development approval applications may be reviewed and considered concurrently with related development approval applications.

(5) Design review of additions or alterations to existing *single-family* homes shall be prioritized and shall be placed in Planning and Zoning Board agendas prior to new construction of *single-family* or non-single family applications.

(6) Design review applications for *single-family* or *duplex* development shall be placed on a Planning and Zoning Board agenda within thirty (30) days of submittal of a complete application.

Sec. 90-62. - Single-family and duplex development review process.

1. ~~90-62.1~~ Permits. — No *single-family* or *duplex 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~~[Building Official](#). Such permit shall require conformity with the provisions of these *regulations*. When issued, such permit shall be valid for a period of 180 days. However, the ~~town-manager~~[Town Manager](#) or designee may grant an extension to the permit due to an uncontrollable act of nature of up to 180 days.

2. ~~90-62.2. The building-official~~[Building Official Review.](#) [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~~[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, [including design review approval](#), and that all fees have been paid.

3. ~~90-62.3~~ Permit card. Upon approval of plan specifications and application for permit and payment of required fees, the *building official* 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.

4. ~~90-62.4~~ Permit requirements. The Florida *Building Code* as amended is hereby adopted as the *regulation* governing the construction of *buildings* and *structures* in the ~~town~~ Town. All qualified applicants desiring a permit to be issued by the ~~building official~~ Building Official as required shall file an application in writing on a form provided by the ~~town~~ Town. No development shall occur until and unless the ~~building official~~ Building Official has issued a *building* permit.

5. ~~90-62.5~~ Design guidelines Guidelines. The ~~town~~ Town has adopted ~~design guidelines~~ Design Guidelines intended to provide direction and suggestions for all development. The ~~purpose of the planning~~ Planning and ~~zoning board when conducting design review is to interpret those guidelines~~ Zoning Board shall apply this code and provide guidance to the Design Guidelines in evaluating the applicants as to how the design should be revised to more closely approximate or reflect the town's adopted guidelines. application. The applicant shall then incorporate those suggestions prior to proceeding to building permit Planning and Zoning Board may approve, approve with conditions, or disapprove the application.

6. ~~90-62.6~~ Design Review. *Single-family* and *duplex* development shall be subject to design review by the ~~planning~~ Planning and ~~zoning board~~ Zoning Board. The following types of applications shall require noticing as described below:

- (1) a. Construction of new *single-family* homes.
- (2) b. Partial demolition and rebuilding of at least 50 percent of the square footage of a *single-family* home where the exterior facade of the structure is affected.
- (3) c. An addition of at least 50 percent of the square footage of the existing *single-family* home.

The applicant shall notify the public of the ~~planning~~ Planning and ~~zoning board~~ Zoning Board hearing date and location, on the proposed application as follows:

- a. a. The applicant, at its expense, shall post a notice on the property no less than ten (10) days prior to the ~~planning~~ Planning and ~~zoning board~~ Zoning Board meeting and remove the notice three days after the conclusion of the ~~planning~~ Planning and ~~zoning~~ Zoning

~~board~~Zoning Board meeting. A notice, 18 inches by 24 inches, shall be placed in a prominent place on the property by the applicant, denoting the following:

REQUEST FOR: _____: [INSERT PLAIN LANGUAGE DESCRIPTION OF APPLICATION REQUEST]

PLANNING AND ZONING BOARD/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~~ CLERK OR CHECKING THE TOWN'S

~~b. —~~ PLANNING & ZONING WEBSITE AT [INSERT CURRENT TOWN WEBSITE].

You are encouraged to attend the meeting
or otherwise provide your comments in writing
to the Town Clerk prior to the meeting
(Yellow background/black letters)

Such notice shall be posted by the applicant, at its expense, not less than ten (10) days prior to such hearing, and shall be removed the notice three days after the appropriate board takes final action regarding the application.

All notices shall contain the requested zoning approval including a description of the proposed development in laymen's language in accord with subsection (3) of this section (i.e. "Design review of single-family home at 89xx Abbot"). Posted notice shall be of standard size in standard colors, approved by Town Manager before erection.

b. The applicant shall, at its expense, mail written courtesy notices via certified mail, to the abutting *single-family* property owners, including those owners of property that are diagonal to the subject property, and *single-family* property owners ~~parallel to the subject property line~~ located across any right-of-way, ~~of~~ including those owners of property that are diagonal to the ~~planning~~ subject property, of the Planning and ~~zoning-board~~ Zoning Board meeting date and location ten days prior to the meeting.

c. e. — The applicant shall provide the ~~town~~ Town the corresponding certified mail receipts, indicating the notices have been mailed and provide evidence that the *sign* has been posted three days prior to the ~~planning~~ Planning and ~~zoning-board~~ Zoning Board meeting.

7. ~~90-62.7~~ The following shall be exempt from ~~planning~~[Planning](#) and ~~zoning board~~[Zoning Board](#) and design review; however, the ~~design-guidelines~~[Design Guidelines](#) shall be followed:

- a. ~~(1)~~ Interior or rear yard fences.
- b. ~~(2)~~ Interior renovations.
- c. ~~(3)~~ Single-family and duplex awnings.
- d. ~~(4)~~ Screens.
- e. ~~(5)~~ Driveways.
- f. ~~(6)~~ Re-roofs.
- g. ~~(7)~~ Trellis.
- h. ~~(8)~~ Storage sheds.

- i. ~~90-62.8~~ [Decks at a height no more than 18 inches from grade](#)
- j. [Pools](#)
- k. [Rear decks not visible from the right-of-way](#)

8. The following are required for submittal to the ~~planning~~[Planning](#) and ~~zoning board~~[Zoning Board](#) for design review applications:

- a. Survey with site elevation information in [NAVD88 and NGVD29](#) (plans must follow same ~~standard~~[standards](#))
- b. Location sketch
- c. Site ~~Plan~~[plan](#) with zoning data table and clear dimensions
- d. Elevations
- e. Floor plans
- f. *Landscape* drawings
- g. Photos of property and neighboring properties with clear descriptions
- h. Renderings
- i. Diagrams depicting identification and calculation of:
 - i. Lot coverage
 - ii. *Landscape/pervious areas*
 - iii. Setbacks
- j. For applications adding second floor to existing first floor, must show building appraisal to determine 50% trigger for additional requirements/improvements (to be reviewed by Building Department)
- k. Identification of colors and materials

9. ~~90-62.9~~ Effective period of ~~planning~~[Planning](#) and ~~zoning board~~[Zoning Board](#) design review approval. A design review approval from the ~~planning~~[Planning](#) and ~~zoning board~~[Zoning Board](#) shall be effective until the development is completed except that if, after 24 months from the date of the approval by the ~~planning~~[Planning](#) and ~~zoning board~~[Zoning Board](#) a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

- a. ~~(1)~~ Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the ~~town-commission~~[Town Commission](#), at its sole discretion, provided the applicant submits a

request in writing to the ~~town-manager~~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.

b. ~~(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 years after the effective date of this chapter. The foregoing provision of this paragraph shall not apply if the governmental approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

10. Appeals. A Planning and Zoning Board decision on design review of a single-family or duplex application may be appealed to the Town Commission within seven (7) days of the decision by the applicant or an abutting neighbor h. Appeals shall be considered on a de novo basis, and the Town Commission may approve, approve with conditions, deny, or remand the application to the Planning and Zoning Board for further action.

(Ord. No. 1514, § 2, 4-14-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1604, § 2, 8-13-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 1623, § 2, 7-8-14; Ord. No. 1650, § 2, 8-10-16 ; Ord. No. 17-661 , § 3, 5-9-17; Ord. No. 18-1689 , § 2, 9-12-18)

Sec. 90-63. --Development review requirements for submittals other than single-family and duplex.

(1) Generally. Review and approval of a *site plan* by staff reviewing agencies, and the ~~planning~~Town Commission, following a hearing and ~~zoning board,~~recommendation by the Planning and ~~the town-commission~~Zoning Board, is required prior to any development of land for any use other than single-family or duplex in the ~~town~~Town.

(2) Process. Submit plans (sets to be determined by ~~town~~Town staff as appropriately needed), which are distributed to the staff members of the development review group (DRG).

(a) ~~(a)~~ The DRG member shall review the *site plan* and prepare comments. The comments shall be forwarded to the ~~town-manager~~Town Manager or designee. The comments shall be addressed by the applicant, if applicable. The ~~town-manager~~Town Manager or designee shall hold a development review group meeting with appropriate ~~town~~Town staff and the applicant to discuss the comments. In reviewing an application each reviewer shall

consider, and comment as appropriate, on applicable issues relevant to their particular *area* of expertise, the extent to which:

- i. ~~i.~~ The development, as proposed, conforms to the ~~comprehensive plan~~ Comprehensive Plan and the zoning code;
- ii. ~~ii.~~ The development, as proposed, will have a favorable or unfavorable impact on the environment and natural resources, including a consideration of the means and estimated cost necessary to minimize the adverse impacts, if any;
- iii. ~~iii.~~ The development, as proposed, will have a favorable or unfavorable impact on the economy of the Town of Surfside;
- iv. ~~iv.~~ The development, as proposed, will efficiently *use* or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities which have been constructed or planned and budgeted for construction in the area;
- v. ~~v.~~ The development, as proposed, will efficiently *use* or unduly burden or affect public transportation facilities, including mass transit, public *streets*, and roads, which have been planned and budgeted for construction in the *area*, and if the development is or will be accessible by private or public roads or *streets*.
- vi. ~~vi.~~ The development, as proposed, is consistent with the community character of the immediate neighborhood. In addition to consistency there must be congruity between the subject development and neighboring improvements and surroundings including but not limited to form, spacing, heights, *setbacks*, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.
- vii. ~~vii.~~ In the event of *redevelopment*, the applicant shall also submit a detailed plan for demolition.

(b) ~~(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 ~~planning~~ Planning and ~~zoning-board meetings~~ Zoning Board meeting. The Town Manager or designee shall prepare a report to the ~~planning~~ Planning and ~~zoning-board~~ Zoning Board and ~~town-commission~~ Town Commission, addressing the applicable criteria. In formulating its recommendation, the Planning and Zoning Board shall consider the applicable criteria, Design Review Guidelines, and these regulations. In formulating its decision, the Town Commission shall consider the applicable criteria, Design Review Guidelines, these regulations, and the Planning and Zoning Board recommendation. The Town Commission may place conditions on the approval.

- (3) Submittal requirements for DRG and ~~planning~~ Planning and ~~zoning-board~~ Zoning Board are provided below.
- a. Survey with site elevation information in NAVD88 and NGVD29 (plans must follow same ~~standard~~ standards)
 - b. Location sketch
 - c. Site ~~Plan~~ plan with zoning data table and clear dimensions

- d. Elevations
 - e. Floor plans
 - f. *Landscape* drawings
 - g. Photos with clear descriptions
 - i. Of property and neighboring properties
 - h. Renderings
 - i. Context diagrams – showing proposed in context of neighboring *structures*
 - j. Streetscape diagrams for all frontages
 - k. Diagrams depicting identification and calculation of:
 - i. *Lot coverage*
 - ii. *Landscape/pervious areas*
 - iii. *Setbacks*
 - l. Elevations
 - m. Floor plans for all levels
 - n. *Landscape* drawings
 - o. Parking calculations
 - p. Shade study diagram
 - q. Sections
 - r. Identification of colors and materials
- (4) Notice. Notice of the Planning and Zoning Board meeting and Town Commission meetings shall be provided as described in Section 90-58.
- (5) ~~90-63.2~~ Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require *site plan* approval, ~~however,~~ but may require design review approval by the ~~planning~~ Planning and ~~zoning board~~ Zoning Board:
- (a) ~~(1)~~ The deposit and contouring of fill on land.
 - (b) ~~(2)~~ Construction of a *single-family* home on an existing *single-family lot*.
 - (c) ~~(3)~~ Construction of a single *duplex* on an existing single *lot*.
- (6) ~~90-63.3~~ Effective period of final *site plan* approval. An approved final *site plan* shall be effective until the development is completed except that if, (a) after 12 months from the date of final *site plan* approval, the property owner has not submitted *building* permit plans for review and expeditiously pursued a *building* permit, as determined in the sole discretion of the Town Manager; or (b) after 24 months from the date of final *site plan* approval, a *building* permit for a principal *building* has not been issued and remains in effect, the *site plan* shall be null and void.
- (a) ~~(1)~~ Extensions for good cause, not to exceed a total of one year for all extensions, may be granted by the ~~town-commission~~ Town Commission, at its sole discretion, provided the applicant submits a request in writing to the ~~town manager~~ 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 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~~Planning and ~~zoning board~~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~~Planning and ~~zoning board~~Zoning Board as a part of the approval of the amendment.

(b) ~~(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 years after the effective date of this chapter. The foregoing provision of this paragraph shall not apply if the governmental approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

(Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11; Ord. No. 1598, § 2, 1-15-13; Ord. No. 1618, § 2, 3-11-14; Ord. No. 18-1689, § 2, 9-12-18)

Secs. 90-64- 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 vacant 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.

Sec. 90-73. Nonconforming use of buildings and/or accessory use of land.

Except as otherwise provided herein, the lawful *use* of a *building* or lawful *accessory use* of land 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.

Notwithstanding anything to the contrary in Article 3 of this Code, any legally established *hotel*, including any legally established *accessory uses*, may continue as a permitted *use* unless discontinued in the manner provided in Section 90-74, and may be re-instituted upon reconstruction of the *structure* following accidental or catastrophic destruction due to circumstances outside of the control of the property *owner* or its agents.

[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~~75. 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~~75 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~~75.

[Ord. No. 1449, § 2, 1-13-04]

Sec. 90-~~75~~76. Destruction of a nonconforming use or structure.

(a) ~~————~~ 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* or *structure* 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 are the subject of a valid *building* permit obtained within ~~42~~18 months of the date of such damage, provided the repair or reconstruction proceeds expeditiously and the *building* permit does not expire, or is terminated by the Town Building Official.

(b) ~~[Code 1960, § 18-65]~~ Notwithstanding anything to the contrary in this zoning code, and due to the extraordinary circumstances involving the unexpected collapse of the Champlain Tower South, the property located at 8777 Collins Avenue, consisting of approximately 1.3 acres of net lot area, shall be permitted to be developed with the same height (total dimension), number of units, and total floor area as depicted in the original building permit plans, as amended, for the Champlain Towers South on file with the building department

(the “CTS Permit Plans”). Except as modified in this subsection, all other applicable land development *regulations*, including any limit on the number of stories, shall apply to new development. Nothing in this subsection shall obligate development of the 8777 Collins Avenue property with the height, number of units, and total *floor area* depicted on the CTS Permit Plans, but if the property is developed under this subsection with a height and/or maximum number of units that exceeds the height and/or number of units that would be otherwise allowed under this zoning code, then the maximum *floor area* allowed for the property shall be limited to the *floor area* depicted in the CTS Permit Plans.

Sec. 90-~~76~~77. Reserved

Sec. 90-~~77~~78. 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. ~~(1)~~ — the degree of non-conformity is not increased; and
2. ~~(2)~~ — the enlargement or alteration itself conforms to the requirement of these *regulations*; or
3. ~~(3)~~ — Alterations or additions to *architecturally significant buildings* on H120 zoned *lots* that are nonconforming as to *setbacks* may extend existing *setbacks* as long as the alteration or addition maintains the architectural integrity of the existing *building*. The lesser of the current code-required *setback* or the existing *setback* shall be deemed to be the required *setback* line.

Redevelopment projects seeking to utilize the *setback* exception of this subsection shall be limited to a total height of no more than twice the number of existing floors in a *building*, up to a maximum of 120 feet.

Existing <i>Building</i> Floors	Maximum of Floors of <i>Redevelopment/Expansion</i> using Exception	Number
1	2	
2	4	

3	6
4	8
5	10
6 and above	12

Any *redevelopment* project undertaken under this subsection must comply with the Town's minimum finished floor elevation requirements for all portions of the *building* and further must be designed and developed in accordance with Leadership in Energy & Environmental Design (LEED) or Florida Green Building Coalition (FGBC) *building* design and construction standards.

4. Alterations or additions to any *single-family* home built prior to 1970 that is nonconforming as to setbacks or lot coverage may extend existing setbacks and increase lot coverage over applicable limitations by up to 5% provided the Planning and Zoning Board finds that the alteration or addition maintains the architectural integrity of the existing *building*, is compatible with adjacent *buildings*, and is designed with sensitivity toward adjacent properties. The lesser of the current code-required setback or the existing setback shall be deemed to be the required setback line.

Sec. 90-~~78~~79. 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~~80--90-~~89~~90. Reserved.

DIVISION 4. SPECIAL EXCEPTIONS, CONDITIONAL USE PERMITS AND VARIANCES

Sec. 90-~~90~~91. 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~~ 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) Religious institutions
- (2) Institutions educational or philanthropic, including museums, but not including nursing homes or hospitals.
- (3) *Off-street parking lots.*
- (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* 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*.
- (7) *Bars*
- (8) *Hotel swimming pools* in the H30, H40, and H120 *districts*

(9) Veterinary office

(10) Pump stations in MU and CF *districts*

(11) ~~Electric Vehicle Charging Stations~~ vehicle charging stations in the MU and CF *districts*.

(12) Outdoor dining facilities in the H40 and H120 *district*

(13) Car canopies, constructed of canvas and pipe in accordance with section 90-~~185~~187 in a front, side or *rear yard setback* in the H30A, H30B and H30C *districts*

(14) *Helistop* / Heliport

(15) Hotels and Suite-hotels as adaptive re-use of historically designated buildings in the H40 district

~~(15)~~(16) Any other use set forth as a *conditional use* elsewhere in this code

(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 sign and sealed 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~~Town's adopted ~~comprehensive plan~~Comprehensive Plan.

(d) Procedures; conditional uses. Applications for approval of a *conditional use* shall conform with the procedural requirements of section 90-9496. The ~~planning~~Planning and ~~zoning board's~~Zoning Board's report to the ~~town commission~~Town Commission may contain recommendations regarding conditions which should be imposed by the ~~town commission~~Town Commission in approving the *conditional use*. The ~~town commission~~Town Commission may establish these and/or additional conditions for an approval by a simple majority vote.

(e) Annual Permit Requirements. After approval by the Town Commission, a *Conditional Use*use shall be required to obtain an annual permit. The Town Manager or designee shall review the annual permit application to determine if the *Conditional Use*use continues to comply with requirements of this Code and

any additional conditions approved by the Town Commission. This permit shall include a fee as established by the Town Commission. The permit shall be submitted for and proceed concurrently with the annual *business* tax receipt.

(f) Revocation. If the *Conditional Use* fails to meet requirements of this Code or the conditions approved by the Town Commission, a ~~Conditional Use~~*conditional use* permit may be revoked after the *Conditional Use* permit holder has been notified of these deficiencies. The administrative decision to revoke the *Conditional Use* may be appealed to the Town Manager within thirty (30) days of the revocation. The Town Manager shall schedule an informal hearing with the applicant and his decision shall be rendered within ten days of the meeting in writing. That decision will be considered final. Any decision made by the Town Manager regarding *Conditional Use* permits may be appealed to the Town Commission.

(g) Approval of a *conditional use* under this section shall lapse and/or be extended under the provisions of section 90-~~93~~*95*.

[Code 1960, § 18-69; Ord. No. 1407, § 1, 1-11-00]

Sec. 90-~~91~~*92*. 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~~*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~~*Town Commission* grant a 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~~Manager not authorized to vary terms of section. The ~~town manager~~Town Manager has no authority to relax the terms of this section. Authority to grant variances is lodged solely with the ~~town-commission~~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~~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~~Town Manager, and shall include any required application fee.

(f) Staff review. The ~~town-manager~~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~~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~~Planning and ~~zoning-board~~Zoning Board and to the ~~town commission~~Town Commission.

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

(1) Public hearing. The ~~town-commission~~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~~Town Commission shall review

the application, the purposes and standards set forth in this section, the staff report, the recommendation of the ~~planning~~Planning and ~~zoning board~~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 ~~all—five~~four members of the ~~commission~~Commission.

(h) Standards of review. The ~~town commission~~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.
- (9) For a heightened variance, the requested variance(s) and the project they are a part of are all in the best interest of the ~~town~~Town.

(i) Conditions and restrictions. The ~~town commission~~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 ~~+~~(i) shall constitute grounds for revocation of the variance.

~~(j)~~(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]

Section 90-~~91.1. Practical difficulty variance~~93. Reserved.

~~In order to provide homeowners with the ability to implement ground-floor additions for existing homes, in the H30B district, where existing lot coverage is at or within 20% of the allowable lot coverage, the Planning and Zoning Board may grant a practical difficulty variance to allow an addition that increases the total lot coverage to no more than 50% of the lot area. The addition shall be limited to the ground floor only, and no subsequent alteration of the building may increase second floor area unless the lot coverage is reduced to the regularly applicable maximum 40% of the lot area. The addition shall comply with all other provisions of this code, and shall not result in a new configuration of the roofline other than that necessary to integrate the addition.~~

Sec. 90-~~92~~94. Special exceptions.

The following are special exceptions which may be granted by resolution requiring at least four affirmative votes of the ~~town commission~~Town Commission:

- (1) *Nonconforming uses* as follows:
 - a. 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*.
 - b. *Aggregation of lots* for a unified development *site* that increases *density* and/or *floor area*, provided same has also been approved by a super-majority of the Planning and Zoning Board.
- (3) Any other *use* or development activity specified elsewhere in this code as requiring a special exception.

[Code 1960, §§ 18-70, 18-71]

Sec. 90-~~93~~95. Lapse of special exception, conditional use or variance.

After the ~~town commission~~Town Commission has approved a special exception, *conditional use*, or variance, the special exception, *conditional use*, or variance so approved or granted shall lapse and shall be null and void if, (a) after 12 months from the date of approval, the property *owner* has not submitted *building* permit plans for review and expeditiously pursued a *building* permit, as determined in the sole discretion of the Town Manager; or (b) after 24 months from the date of the approval, a *building* permit for a principal *building* has not been issued and remains in effect; or (c) after 12 months from the date of the approval, the change in *use* in accordance with the plans for which such special exception, *conditional use*, or variance was granted has not been implemented.

However, for good cause shown, the ~~town commission~~Town Commission may grant an extension of up to one year provided the *owner* requests the extension prior to the expiration of the original approval.

Sec. 90-~~94~~96. Special exception and conditional use procedures.

(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~~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~~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 exceptions or conditional uses. All applications for special *use* permits shall be filed with the ~~town-manager~~Town Manager, and the ~~town-manager~~Town Manager is hereby charged with the responsibility for their receipt, fee collection, processing, and/or distribution.

(1) Applications for special exceptions or *conditional uses* 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 exception or *conditional use*, pay to the ~~town~~Town the applicable fee set forth in the ~~town's~~Town's adopted fee schedule, which fee shall be nonrefundable. The applicant shall also pay any other applicable fees as listed in the ~~town's~~Town's adopted fee schedule.

(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~~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 application. Where applicable to the activity or development for which a special exception or *conditional use* is required and where necessary to formulate a decision on an application for special exception or *conditional use*, 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 the special exception or *conditional use* 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 exception or *conditional use* approvals. Approval shall not be granted until the ~~town commission~~ Town Commission has determined that all of the following conditions have been satisfied:

(1) Compliance with the ~~comprehensive plan~~ 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~~ 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 the application.

(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~~ 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 exceptions or conditional uses.

(1) The ~~town-commission~~ Town Commission shall be solely responsible for determinations on applications for special exception or *conditional use*.

(2) The ~~town-commission~~ Town Commission shall refer all applications to the ~~planning~~ Planning and ~~zoning-board~~ Zoning Board for recommendations after holding a public hearing, 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~~Commission shall be required to approve an application. The Town Commission may approve, approve with conditions, or deny an application.

(4) An application 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~~Town Commission, in approving a special exception or *conditional use*, may impose such restrictions as appear to the ~~commission~~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) Mandatory inspections. Each applicant, successor or assign shall make the premises available to the designated agent, agency or body of the ~~town~~Town authorized to make the following inspections. Such agents of the ~~town~~Town responsible for the enforcement of the terms of approval of the special exception or *conditional use*, 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.

(h) 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~~Town, no such *building* permit or *certificate of use* or occupancy shall be issued where this chapter requires special exception or *conditional use* unless and until any and all required special exception or *conditional use* approvals 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 exception or *conditional use* approvals herein in relation thereto have been obtained.

[Code 1960, § 18-75]

Secs. 90-~~95~~97--90-~~99~~101. Reserved.

DIVISION 5. – Reserved

Secs. 90-~~100~~102- 90-~~120~~122. Reserved.

ARTICLE III. ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 90-~~121~~123. 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:

- (1) H30A and H30B. *Districts* wherein *building* masses are restricted to a maximum *building height* of 30 feet.
- (2) H30C. A *district* wherein *building* masses are restricted to a maximum *building height* of 30 feet. *Density* is limited to 17 *dwelling units* per *acre* of *net lot area*.
- (3) H40. A *district* wherein *building* masses are restricted to a maximum *building height* of 40 feet. *Density* is limited to 79 *dwelling units* per *acre* of *net lot area*. Properties north of 94th *Street* fronting on Collins Avenue may be limited to 58 *dwelling units* per *acre* of *net lot area* as set forth in the Town Comprehensive Plan.
- (4) H120. A *district* wherein ~~building masses~~buildings are restricted to a maximum *building height* of 120 feet. *Density* is limited to ~~109~~75 *dwelling* or *hotel* units per *acre* of *net lot area*.
- (5) SD-B40: A special *district* wherein *building* masses are restricted to a maximum *building height* of 40 feet and a *floor area ratio* of 3.0
- (6) Municipal (MU). Town-owned properties and park. Municipal zoning *districts* are designated as ~~town~~Town-owned lands are acquired.
- (7) Community Facilities (CF). Town-owned community facilities.

Sec. 90-~~122~~124. 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 originally adopted on August 8, 2010, as part of Ordinance No. 1558 and re-adopted along with this ordinance. 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~~Clerk of the ~~town~~Town. Such map shall be available for public inspection in the offices of the ~~town~~ ~~clerk~~Town Clerk and the ~~town-manager~~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~~125. 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 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.

(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~~Town limit line.

[Code 1960, § 18-6]

Secs. 90-~~124~~126--90-~~144~~146. Reserved.

ARTICLE IV. DISTRICT REGULATIONS.

Section 90-~~145~~147. Regulated Uses.

Applicability and validity of tables. Nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

(a)(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~~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)(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)(c) — Table—Regulated uses.

	H30A	H30B	H30C	H40	H120	SD-B
Residential Uses						
Detached single-family	P(1)	P(1)	P(1)	P(1)	P(1)	-
<i>Duplex</i>	-	-	P	P	P	-
Multi-dwelling structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
Lodging uses						
Hotel	-	-		P <u>CU</u> (32)	P(7) <u>-</u>	-
Suite-Hotel	-	-		P <u>CU</u> (32)	P(7) <u>-</u>	-
Office Uses and Professional Services						
Banks	-	-	-	-	-	P
Business and professional offices	-	-	-	-	-	P

Currency exchange	-	-	-	-	-	P
Delivery service	-	-	-	-	-	P(9)
Employment agencies	-	-	-	-	-	P(9, 1
General ticket agencies			-	-		P
Interior decorator	-	-	-	-	-	P
Loan or mortgage office	-	-	-	-	-	P(9)
Medical or dental <i>clinic</i>	-	-	-	-	-	P(9)
<i>Medical marijuana dispensary</i>	-	-	-	-	-	-
Psychic reading, advising, and consulting, palmistry, clairvoyance, astrological interpretation, tarot card reading, spiritual consultation, or fortune telling	-	-	-	-	-	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
Veterinary office	-	-	-	-	-	CU(2)
Retail and General Commercial Uses						
Antique shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art dealers	-	-	-	-	-	P
Art supplies	-	-	-	-	-	P
Beauty/personal services	-	-	-	-	-	P(19)
Health club or studio	-	-	-	-	-	P(16,
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines			-	-		P(15)
Department stores	-	-	-	-	-	P

Drug stores	-	-	-	-	-	P(30)
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 (31)
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(20)
Shoes	-	-	-	-	-	P
Sporting goods			-	-		P
Stationery and greeting cards	-	-	-	-	-	P
Sundries	-	-	-	-	-	P
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P
Video tapes sales and rentals	-	-	-	-	-	P(12)
Food Services						
Bakeries						
Candy and nut shops			-	-		P(13)
Caterers	-	-	-	-	-	P

Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit shops			-	-		P(13)
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
Outdoor dining facilities						P(24)
Educational Services						
Dance or music instruction studios						
Institutions, educational or philanthropic, including museums						CU
Driving school offices			-	-		P(9, 2)
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public schools	-	-	P	P	-	-
Places of Assembly						
See RLUIPA Map and Ordinance 07-1479						
Civic Uses						
Parks and open space						
Playgrounds	P	P	P	P	P	-

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional*
 Use [use](#)

Uses	Municipal	Community Facilities
Library	P	P
Parks & Open Space space	P	P
Playgrounds	P	P
Community Center	P	P
Gymnasiums	P	P
Town Offices	P	P
Police Facilities	P	P

Pump Stations	CU(23)	CU(23)
Parking	P	-
Electric Vehicle Charging Station	P(29)	P(29)

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional*
~~Use~~use

<i>Accessory uses</i>	H30A	H30B	H30C	H40	H120	SD-B40
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)	-
Swimming pools	P(2)	P(2)	P(2)	P(2)	P(2)	-
Hotel Swimming pools	-	-	CU(2)	CU(2)	CU(2)	-
Vending machines	-	-	P(6)	P(6)	P(6)	-
Bar	-	-	-	-	CU(2)	P
Outdoor dining facilities	-	-	-	CU	CU	-
Electric Vehicle Charging Station	P(27)	P(27)	P(28)	P(28)	P(28)	P(29)
Pet Grooming						P(31)
Heliport/helipad				CU	CU	CU

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: *Conditional*
~~Use~~use

~~(d)~~—

(d) Uses table notes.

(1) ~~(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) (2)~~ Shall be for private-use only limited to residents and guests only and not public access.-

~~(3) (3)~~ Shall be limited to 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.

~~(4) (4)~~ Shall be limited to lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.

~~(5) (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) (6)~~ Shall be allowable only inside buildings containing ten or more living units or guest rooms.

~~(7) (7)~~ May No new Hotels or Suite Hotels shall be permitted after the effective date of this zoning code. Only Hotels and Suite Hotels existing as of the effective date of this zoning code are permitted. Such existing Hotels and Suite Hotels may provide a beauty/personal services, 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) ~~(8)~~—Shall conform to the following restrictions and conditions:

a. ~~a.~~—That no baking shall be done on the premises for other retail or wholesale outlets.

b. ~~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. ~~e.~~—That adjoining properties shall be safeguarded and protected from exhaust fan or other obnoxious noises and odors at all times.

d. ~~d.~~—That all baking will be done by the use of electric or natural gas (not bottled gas) ovens only.

e. ~~e.~~—All machinery and equipment shall be entirely confined within the *main building*.

f. ~~f.~~—That the hours of baking operation shall be limited to those hours between 6:00 a.m. and 9:00 p.m.

g. ~~g.~~—That the entire store *area* shall be fully air-conditioned as required for comfort.

h. ~~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.

(9) ~~(9)~~—Shall only be allowed above the first floor. This shall apply to all service agency categories.

(10) ~~(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) ~~(11)~~—Shall not be visible from sidewalk or *street* and shall not be permitted fronting Harding Avenue.

(12) ~~(12)~~—Provided all tapes sold are prerecorded, and all tapes are rated either G, PG, PG-13, or R.

(13) ~~(13)~~—Provided that no sales shall be made through an open window to *any street, alley, driveway* or sidewalk.

(14) ~~(14)~~—Provided no repairing or servicing of furniture is permitted on the premises.

(15) ~~(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 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)~~ ~~(16)~~—Shall only be allowed above the first floor and such studios meet all of the following restrictions and conditions:-

~~a.~~ ~~a.~~—That the premises be air conditioned and soundproofed.

~~b.~~ ~~b.~~—That no dance instruction or dancing shall be visible from any sidewalk, *street* or *alley*.

~~c.~~ ~~e.~~—That the opening and closing hours for such studios may be established by the ~~town commission~~ Town Commission at its discretion at any time.

~~(17)~~—

~~(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)~~ ~~(18)~~—Reserved.

~~(19)~~ ~~(19)~~—Services including tanning, hair removal (except for shaving normally associated with barbershops) and licensed therapeutic massage shall not be visible from the public right-of-way.

~~(20)~~ ~~(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.

~~(21)~~ ~~(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~~ Town.

~~(22)~~ ~~(22)~~—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*.

~~(23)~~ ~~(23)~~—Reserved.

~~(24)~~ ~~(24)~~—Outdoor dining facilities on private property shall be permitted subject to all applicable zoning code requirements. Outdoor dining facilities that are on public right-of-way shall be solely subject to the open air cafe requirements provided in chapter 18 of this Code of Ordinances.

~~(25)~~ ~~(25)~~—Veterinary office is a facility for the diagnosis and treatment of pet animals.

Pet animals are defined as dogs, cats, rabbits, guinea pigs, hamsters, mice, ferrets, birds and fish retained for the purposes of being kept as a household pet.

Veterinary offices approved by *conditional use* are subject to the following:

~~a.~~ ~~a.~~—Animals shall be walked on the premises in an enclosed area and all waste shall be disposed of immediately.

~~b.~~ ~~b.~~—No overnight boarding shall be permitted.

~~c.~~ ~~e.~~—Soundproofing shall be required and the noise outside the *building* shall not exceed that of average daily traffic measured at the *lot* line.

~~d.~~ ~~d.~~—No malodor shall be perceptible at the boundary of the premises.

~~e.~~ ~~e.~~—All waiting rooms and patient *areas* shall not be visible from the public right-of-way.

~~f.~~ ~~f.~~—A minimum of ten percent of the *floor area* of the establishment shall provide retail sales located at the front of the establishment.

~~g.~~ ~~g.~~—Grooming shall be permitted as an ancillary *use* to a veterinary service.

~~h.~~ ~~h.~~—There shall be a minimum distance separation of 400 feet between veterinary offices.

~~i.~~ ~~i.~~—A violation of any of the conditions described in subsection 90-41(d)(25)a.— h., or a violation of the standards of review in section 90-23.2 or a violation of additional conditions required by the ~~town-commission~~ Town Commission, shall result in the rescinding of the *conditional use* permit after the *conditional use* permit holder has been notified of these deficiencies. An administrative decision to revoke the *conditional use* permit may be appealed to the ~~town-manager~~ Town Manager within 30 days of the date of the revocation. The ~~town-manager~~ Town Manager shall schedule an informal hearing with the applicant and the ~~town manager's~~ Town Manager's decision shall be rendered in writing within ten days of the meeting. Any decision made by the ~~town-manager~~ Town Manager regarding *conditional use* permits may be appealed to the ~~town commission~~ Town Commission.

~~(26)~~—

~~(26)~~ (26) Provided that no animals including without limitation dogs, cats, ferrets, rabbits, turtles, gerbils, hamsters, cows, horses, sheep, and other domestic animals or livestock shall be sold on the premises.

~~(27)~~ ~~(27)~~—*Electric vehicle charging stations* shall be limited to personal use and shall not be used for purposes of wholesale or retail sales. All components of the ~~electric~~ Electric *vehicle charging station* shall be *wall* mounted and completely concealed from view. The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

~~(28)~~ ~~(28)~~—*Electric vehicle charging stations* shall contain a retraction device, coiled cord, or a place to hang cords and connectors above the ground surface.

The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

~~(29)~~ ~~(29)~~—*Electric vehicle charging stations* shall be limited to ~~electric~~*Electric* vehicle charging level 2 or level 3 ~~electric~~*Electric* vehicle charging stations only and contain a *retraction* device, coiled cord, or a place to hang cords and connectors above the ground surface. The station shall include the following: (a) voltage and amperage levels; (b) usage fees, if any; (c) safety information; and (d) contact information to report issues relating to the operation of the equipment. The station shall be elevated or designed so that all electrical components are 12 inches above the 100-year floodplain.

~~(30)~~ ~~(30)~~—The following *uses* shall be separated from similar existing *uses*, or similar approved but unbuilt *uses*, within the ~~town~~*Town* limits, by the minimum distances specified below, measured from front door to front door:

~~a.~~ ~~a.~~—For purposes of this calculation, front door shall mean the primary public access to the *business* which shall not include any *alley*, rear or secondary access point.

~~b.~~ ~~b.~~—Drug stores: eight hundred fifty (850) feet.

~~(31)~~—

~~(31)~~ Pet grooming may be permitted as accessory to pet supplies provided:

~~a.~~ ~~a.~~—Animals shall be walked on the premises in an enclosed *area* and all waste shall be disposed of immediately.

~~b.~~ ~~b.~~—No overnight boarding shall be permitted.

~~c.~~ ~~c.~~—Soundproofing shall be required and the noise outside the *building* shall not exceed that of average daily traffic measured at the *lot* line.

~~d.~~ ~~d.~~—No malodor shall be perceptible at the boundary of the premises.

~~e.~~ ~~e.~~—Pet sales or pet adoption services are prohibited.

~~f.~~ ~~f.~~—There shall be a minimum distance separation of 850 feet between pet supplies stores offering pet grooming and 400 feet between a pet supplies store offering pet grooming services and a veterinary office offering pet grooming services.

~~(32)~~ ~~(32)~~ *Hotels and Suite Hotels* shall be permitted as a conditional use only as adaptive re-use of historically designated *buildings* at a *density* of up to 108 units per acre of *net lot area* provided a certificate of appropriateness is obtained pursuant to **Section 90-272275.3** of this Code and subject to compliance with all other requirements of this code.

(Ord. No. 1504, § 2(Exh. A), 5-13-08; Ord. No. 1514, § 2, 4-14-09; Ord. No. 1551, § 2, 3-13-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1561, § 2, 10-12-10; Ord. No. 1563, § 2, 11-9-10; Ord. No. 1566, § 2, 1-18-11; Ord. No. 1572, § 2, 4-12-11; Ord. No. 1601, §

2, 4-9-13; Ord. No. 1608, § 2, 10-8-13; Ord. No. 1611, § 1, 2-11-14; Ord. No. 1617, § 2, 3-11-14; Ord. No. 17-1666, § 3, 12-12-17; Ord. No. 19-1705, § 2, 11-12-19)

Section 90-~~146~~148. Prohibited uses.

Medical marijuana dispensaries shall not be permitted within the ~~town~~Town boundaries pursuant to Section 381.986(11)(b)1, Florida Statutes (2019).

Section 90-~~147~~149. Home offices.

(1) ~~(1)~~—Home offices are permitted in residential *areas* of the ~~town~~Town provided that:

(a) ~~(a)~~—Users of the home office are residents of the premises;

(b) ~~(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) ~~(c)~~—There is no change in the outside appearance of the *building* or premises as a result of the home office;

(d) ~~(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) ~~(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) ~~(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) ~~(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) ~~(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)~~ ~~(3)~~—No more than one vehicle related to the home office shall be permitted upon the premises. Such vehicle must be 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)~~ ~~(4)~~—The home office activities shall be compatible with the residential *use* of the property and surrounding residential units;

~~(5)~~ ~~(5)~~—The home office activities shall not involve any illegal activities;

~~(6)~~ ~~(6)~~—The home office activities shall not result in any increase in demand on ~~town~~ Town services as compared to the average typical residence of the same size.

~~(7)~~ ~~(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)~~ ~~(a)~~—The ~~town manager~~ Town Manager or designee shall determine whether the home office meets the established criteria as set forth in subsection (1) above. The determination may be appealed to the ~~planning~~ Planning and ~~zoning board~~ Zoning Board whose ruling shall be final and may be appealed to the circuit court.

~~(b)~~ ~~(b)~~—A local *business* tax receipt must be obtained from the ~~town~~ 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.

(Ord. No. 1558, § 2(Exh. A), 8-10-10)

Sec. 90-148 150. Reserved.

Sec. 90-149-151. Short term rental of single-family dwellings, duplex dwellings, multi-family dwellings and townhomes.

(a) Definitions and registration:

(1) Intent. The Town of Surfside recognizes that the unregulated rental of ~~single-family~~, *duplex*, *multi-family*, and *townhome dwelling units* by *seasonal residents* uniquely impacts certain neighborhoods within the ~~town~~ Town. Therefore, it is necessary and in the interest of the public health, *safety*, and welfare to the monitor and provide reasonable means for citizens of the Town to mitigate impacts created by such rental of such *dwelling units* within the Town as set forth in this article.

(2) Definitions. For the purpose of this section, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

a. *Owner* shall mean the *person* whom is vested ownership, dominion, or title of property.

b. *Responsible party* shall mean the *owner* or the *person* designated by the *owner* of the property to be called upon to answer for the maintenance of the property and the conduct and acts of *seasonal residents* of *single-family*, *duplex*, *multi-family*, and/or *townhome dwelling units*.

c. *Seasonal resident* shall mean guests, tourists, lessees, vacationers, or others who lease a *single-family*, *duplex*, *multi-family*, and *townhouse dwelling unit* for valuable consideration for a period of time between one day to no more than six months.

d. *Short-term rental* shall mean any occupancy of a *single family*, *duplex*, *multi-family*, and *townhouse dwelling unit* for a period of time between one day to no more than six months provided however the terms of this short term rental ordinance shall not apply to film and print productions and *use* of the aforementioned premises for those purposes.

(3) Registration required. It shall be unlawful for any *person* to allow another *person* to occupy any *single-family*, *duplex*, *multi-family*, and *townhouse dwelling unit* as a *seasonal resident* within the Town of Surfside, or offer such rental services within the ~~town~~Town, unless the *person* has been registered with the ~~town~~Town in accordance with provisions of this section. A registration is required for each rental period for which the *single-family*, *duplex*, *multi-family*, and/or *townhouse dwelling unit* is rented. No more than three (3) registrations shall be issued within a 12-month period. Every *person* required to procure a registration under this Section shall submit a formal application to the ~~town manager~~Town Manager or designee.

(4) Application for registration. Applications for registration shall set forth and/or include at a minimum:

a. Address, *lot*, block and subdivision name of *single-family*, *duplex*, *multi-family*, and *townhouse dwelling unit* offered for rental;

b. Name, address, and phone number of *owner* of said *single-family, duplex, multi-family, and/or townhouse dwelling unit*;

c. Name, address, and emergency contact phone number of *responsible party* for said *single-family, duplex, multi-family, and townhouse dwelling unit*, which shall be a 24-hour, seven days a week contact number;

d. That the phone number for the *responsible party* will be answered 24 hours a day, seven days a week by a party with authority to address or coordinate problems associated with the *single-family, duplex, multi-family, and townhouse dwelling unit*;

e. Acknowledgements by *owner* of the following:

i. That all vehicles must be parked in the driveway of the *single-family, duplex, multi-family, and townhouse dwelling unit* and clear of all grassy areas and sidewalk sections pursuant to Town of Surfside Code of Ordinances;

ii. That it shall be unlawful to allow or make any noise or sound which exceed the limits set forth in the Town's Noise Ordinance;

iii. That no garbage container shall be located at the curb for pickup before 12:00 pm of the day prior to pickup, and garbage container shall be removed before midnight of the day of pickup;

iv. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any *structure* or conveyance of a *single-family, duplex, multi-family, and townhouse dwelling unit*, or, having been authorized, licensed, or invited is warned by the *owner* or lessee, to depart the unit and refuses to do so, commits the offense of trespass in a *structure* or conveyance;

f. Proof of *owner's* current ownership of the *single-family, duplex, multi-family, and townhouse dwelling unit*.

g. Issuance or refusal of registration. The ~~town-manager~~[Town Manager](#) or his designee shall issue a registration to the applicant upon proof of the following:

i. The *owner* and/or *responsible party* completes the Town of Surfside registration application form; and

- ii. The registration fee has been paid to the ~~town~~Town; and
 - iii. Incomplete registration applications are unacceptable and requested registration shall not issue.
 - h. Registration not transferable. No registration issued under this article shall be transferred or assigned or used by any *person* other than the one to whom it is issued, or at any location other than the one for which it is issued.
 - i. Expiration of registration. All registration issued under the provisions of this article shall be valid for the rental period requested in the application.
 - j. Complaints. Whenever a violation of this article occurs, or is alleged to have occurred, any *person* may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the ~~town-manager~~Town Manager or his designee.
- (b) Fees for registration. The Town is authorized and shall charge a fee for registration to compensate for administrative expenses. The fees for registration shall be set forth in a resolution adopted by the ~~commission~~Commission of the Town of Surfside, and may be amended from time to time.
- (c) Resort tax and enforcement.
- (1) Payment of resort tax required. *Owners* are subject to payment of the resort taxes as establish by the laws of the Town of Surfside.
 - (2) Violations of this section:
 - a. Are subject to the fines as set forth in the schedule of fines adopted by resolution.
 - b. In addition to or in lieu of the foregoing, the ~~town~~Town may seek injunctive relief.
 - c. Any code compliance officer may issue notices for violations of this ordinance, with enforcement of section 90-~~41.1 90-149-151~~ and alternative enforcement of section 1-8 as provided in Chapter 1 of this Code. Violations shall be issued to the *owner*, manager, real estate broker or agent, or authorized agent, or any other individual or entity that participates in or facilitates the violation of this section. In the event the record *owner* of the property is not present when the violation occurred or notice of violation issued, a copy of the violation shall be served by certified mail on the *owner*

at its mailing address in the property appraiser's records, in the event the notice is returned as unclaimed or refused, notice may be provided by posting on the property, and a courtesy notice by first class mail to the contact *person* identified in subsection (4)c. above.

(d) Previously existing short term rentals.

(1) Only those properties that were previously recognized as eligible for short term rental under the terms of Ordinance Nos. 1573, 1600, or 1620 may be made available for short term rental, subject to accounting for and payment of all sums due in connection with resort taxes and occupational licenses, maintaining all certificates of occupancy and/or inspections current, and maintaining appropriate registration with the State of Florida as a *Transient Apartment*, *Resort Dwelling*, or *Resort Condominium* pursuant to Chapter 509, Florida Statutes, as of November 10, 2011.

[Ord. No. 1573, § 2, 5-10-11; Ord. No. 1600, § 2, 2-12-13; Ord. No. 1620, § 2, 6-10-14]

Sec. 90-~~150~~152 through 90-~~154~~156. Reserved.

Sec. 90-~~155~~157. District regulations tables.

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 I

District	Minimum Lot Requirements ¹		Minimum Yard Requirements ⁶¹				Depth Rear Yard in Feet	Minimum Floor Area ^{ar}	Maximum Lot Coverage
	Lot Area per Dwelling Unit ^{unit} in Square Feet	Lot Width in Feet	Height ⁴	Depth Front Yard in Feet	Interior in Feet	Corner in Feet			
H30A Single-family residential	8,000	50	30	20 ⁴⁰	5 ⁴⁴ min ; 7.5 average	10 ⁴⁴	20 ⁴⁰	2,500	First Flr. – 40% Second Flr – 32%

	Minimum Requirements ¹	Lot Requirements ¹	Minimum Requirements ⁶¹						
District	Lot Area per Dwelling Unit in Square Feet	Lot Width in Feet	Height ⁴	Depth Front Yard in Feet	Interior in Feet	Corner in Feet	Depth Rear Yard in Feet	Minimum Floor Area ^{ar}	Maximum Lot Coverage
H30B Single-family residential	5,600	50	30	20 ⁴⁰	5 ⁴⁴ min ; 7.5 average	10 ⁴⁴	20 ⁴⁰	1,800	First Flr. – 40% Second Flr – 32%
H30C Residential									
Single-Family family	5,000	50	30	20	5 ⁴⁴	10 ⁹⁴⁴	20	1,800	--
Duplex	2,500	50	30	20	5 ⁴⁴	10 ⁹⁴⁴	20	950	--
Multifamily	2,000	75	30	20	7 ⁴⁴	10 ⁹⁴⁴	10 ⁸	950 ⁷	--
H40 District									
Single-family	5,000	50	30	20 ¹² 20	5 ⁴⁴	10 ⁴⁴	10 ⁸	1,800	--
Duplex	2,500	50	30	20 ¹² 20	5 ⁴⁴	10 ⁴⁴	10 ⁸	950	--
Multifamily ⁹ Multifamily ³	750	75 ⁷⁵²	40	20 ¹² 20	7 ⁴⁴	10 ⁴⁴	10 ⁸	See Table H-7J ³	--
Hotel Hotel ³	400	100 ²	40	20 ¹² 20	7 ⁴⁴	10 ⁴⁴	20	See Table H-7J ³	--
Townhouse (more than 2 units)	550	150 ²	30	20 ¹² 20	5 ⁴⁴	10 ⁴⁴	10 ⁸		First Story 60%
									Second story 55%
									Third story 40%
									--
H120 District ³									

	Minimum Requirements ¹	Lot Requirements ¹	Minimum Requirements ⁶¹				Yard		
District	Lot Area per Dwelling Unit in Square Feet	Lot Width in Feet	Height ⁴	Depth Front Yard in Feet	Interior in Feet	Corner in Feet	Depth Rear Yard in Feet	Minimum Floor Area ^{ar}	Maximum Lot Coverage
Multifamily	400	100	120 ¹³ 120	40 ⁻⁵	10 ²⁰ %	20%	30	See Table II 7 ³	--
Hotel	--	150	120 ¹³ 120	40 ⁻⁵	10 ²⁰ %	20%	30	See Table II 7 ³	--
SDB40 District	No dwelling units permitted	No minimum	40	None required	None required	None required	None required	--	--

4. A dash (-) indicates no applicable regulation.

1. Except where modified by district-specific regulation in sections 90-158 through 90-163.

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.a. 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 building 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 90-177, 90-178, 90-179.~~

~~7.3. The number of efficiencies in any multifamily building shall not exceed five 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. In the H40 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. 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 measured from the crown of the road abutting the property.~~

~~(2) Front setback shall be 25 feet, with other setbacks as stated in section 90-155, Table I, under H40, multifamily.~~

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

~~(4)a. Parking is absolutely prohibited in any portion of the front yard area, but is permitted in side and rear yards.~~

~~(5)a. Unit size minimum floor area shall be:~~

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

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

~~10. In H30A and H30B districts, lots in excess of 112.5 feet in depth, the combined depth of front and rear yards shall be a minimum of thirty six (36) percent of lot's total depth. In no event shall front or rear yards be less than the minimum depth specified above.~~

~~11. In the H30A, H30B, H30C and H40 districts 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.~~

TABLE II. MINIMUM FLOOR AREA FOR APARTMENTS, AND HOTEL/SUITE-HOTEL ROOMS (where existing or permitted)

Residential apartments		
<u>Residential Apartments</u>		
	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
	<u>One-bedroom Apartment</u>	<u>800 square feet</u>
	<u>Two-bedroom Apartment</u>	<u>1,000 square feet</u>
	<u>Three-bedroom or more Apartment</u>	<u>1,200 square feet</u>
	Minimum average unit size per building	1,000 square feet
Hotels, each room		350 square feet
Suite-hotels, for each room		525 square feet
Suite-hotels rooms with cooking facilities		800 square feet
<u>Suite-hotels rooms with cooking facilities</u>		<u>800 square feet</u>

4. Height is measured from the crown of the road to the highest structural part of a flat roof or the top of tie beam or truss for a sloped roof, except as set forth in section 90-161 for the H120 district only.

Sec. 90-158. H30A and H30B.

A. Generally. See Section 90-157 for general requirements.

B. Minimum Lot Area and Lot Width. An H30A lot shall have a minimum lot width of 50 feet and minimum lot area of 8,000 square feet. An H30B lot shall have a minimum lot width of 50 feet and minimum lot area of 5,600 square feet.

C. Lot Coverage. Lot coverage is limited to a maximum forty percent (40%) of the lot; provided however that the following exemptions shall not be included in determining the lot coverage:

a. Uncovered steps and exterior balconies; and

- b. Uncovered terraces, patios, breezeways, or porches which are open on two (2) or more sides; and
- c. Covered terraces, patios, breezeways, or porches which are open on two (2) or more sides.

In no instance may the total area of all exemptions permitted by (a) through (c) listed above exceed 6% of the Lot area.

D. Floor Area. The maximum floor area shall be limited to 68% of the lot area. The floor area of the second floor is limited to a maximum of 32% of the lot area or 80% of the first floor, whichever is less.

E. Height. The maximum height is 30 feet. 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. Rooftop photovoltaic systems up to a height of five feet above the roofline and parapets not exceeding 18" above the roofline are exempt from the percentage limitation in this subsection.

F. Setbacks.

a. Main Building. Required setbacks are as follows:

- i. Front and Rear: 20 feet minimum, except that for lots in excess of 112.5 feet in depth, the combined depth of front and rear yards shall be a minimum of thirty-six (36) percent of the lot's total depth.
- ii. Secondary frontage (side street or water body): 10 feet
- iii. Interior Side: 5 feet minimum, or for lots in excess of 50 feet in width, twelve percent of the total width of such lot. In addition, the main building shall maintain an additional average setback of 2.5 feet over and above the applicable minimum side setback calculated as follows:
 - 1. Multiply the required average setback by the height of the building.
 - 2. Multiply the resulting figure by the depth of the allowable building on that side (lineal feet between minimum front and rear setback) to arrive at the aggregate volume of average side setback.
 - 3. The aggregate volume of average side setback must be applied in any one or multiple areas throughout the height and depth of the building (further reducing the building envelope created by the minimum required side setbacks) to reduce the floor width (i.e. parallel to the lot width) and/or depth (i.e. perpendicular to the lot width), at the discretion of the design professional. Average setback may be applied at any point along a floor, mixed and matched among floors, and/or joined with setbacks taken from the opposite side elevation. Covered exterior areas open on two or more sides can be

- used to meet average *setback* requirements, but must at all times maintain the minimum *side setback*.
- iv. For a *building* site where redevelopment preserves 80% or more of the constructed *floor area* of an existing *single-family* home, the minimum *setback* shall be 5 feet and the average *side setback* shall be 7.5 feet irrespective of the *width of the lot*.
 - v. In the H30A district, the *main building* shall maintain a *rear yard* of at least 25 feet from the seawall on Point Lake, north canal, or south canal, or at least 50 feet from the seawall on any other body of water.
 - vi. *Lots* improved with libraries, churches and synagogues, recreational centers or other public and semipublic *buildings* shall maintain an *interior side setback* of at least 15 feet.
- b. Projections and Encroachments into Required Setbacks. Except as otherwise specified in this sub-section, every part of a required *yard* shall be open to the sky.
- i. Eaves of sloped roofs may project up to 24 inches into the *side yard setback*. All other ornamental or screening features in the H30A and H30B *districts*, including cornices, sills, frames, and fins, may project no more than 8 inches into any required *yard*.
 - ii. *Moveable awnings* may be placed over doors or windows and may project not more than three feet into any required *yard*.
 - iii. 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 *duplex* residence and is not visible from any *street* or waterway. All equipment shall be screened by a visual and sound enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above), matches closely to its immediate surroundings in texture, color, and appearance, and reduces operating noise to no more than 55 dBA when measured from any property line. The enclosure shall not exceed six feet in height above *grade*.
 - iv. 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.
- c. Accessory Structures.
- i. *Accessory buildings* which are not a part of the *main building*, even if connected by an open breezeway, may be constructed in a *rear yard* provided such *accessory building* does not exceed 12 feet in height and occupies no more than thirty percent (30%) in H30A or twenty percent (20%) in H30B of the required *rear yard setback area* 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.

- ii. Accessory swimming pools, open and unenclosed, or covered by a screen enclosure, may occupy a required rear or side yard setback, provided the pool and any enclosure 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.
- iii. 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.
- iv. 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.
- v. A storage 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 Florida Building Code for hurricane force wind resistance; and otherwise meet all applicable requirements of the Florida Building Code.

G. Pervious Area and Paving. At least 35% of the lot area shall be pervious area and remain unbuilt open space. Front yards 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 50 percent of the front yard shall be landscaped. 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 50 percent of the side yard shall be landscaped.

a. Curb cuts. 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.

- i. Where there is a single curb cut for any one property, the curb cut shall not be more than 18 feet in width.
- ii. 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.

H. Rooftop Mechanical Equipment. Mechanical equipment shall be permitted on any roof in the H30A and H30B districts, subject to the following requirements:

1. Setback from roof perimeter. All equipment and enclosures shall be set back from the roof perimeter so that it is not visible from eye-level view from *grade* at a distance of 75 feet from any property line of the subject *lot*. This shall be demonstrated by line-of-sight drawings submitted as part of a zoning approval or design review package.
2. Screening. All equipment shall be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street. In either instance, neither equipment nor screening shall be visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject *lot*.
3. The footprint area of the equipment, as defined by the perimeter of the decorative and acoustic screen enclosure, shall not exceed 7.5% of the total area of the roof upon which it is placed.
4. Rooftop equipment and all screening elements shall not exceed six (6) feet above the roof slab for a *flat roof* or above the truss for a *pitched roof*.
5. Any rooftop mechanical equipment installed prior to the effective date of this ordinance shall meet the requirements of this section for any replacement of equipment.

Sec. 90-159. H30C.

A. Generally. *Lots* shall be developed in accord with the H30A and H30B *regulations* in section 90-158, except as set forth below:

- a. Where section 90-158 conflicts with *regulations* in section 90-157, section 90-157 shall control.
- b. Lot Area. *Lot area* shall be unlimited subject to required *setbacks*.
- c. Minimum Rear Setback. The minimum depth of a *rear yard* abutting Harding Avenue or Abbott Avenue shall be 20 feet.
- d. Projections and Encroachments into Required Setbacks. Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any *required yard* except on *lots* west of Harding Avenue. For *lots* west of Harding Avenue, eaves of sloped roofs may project up to 24 inches into the *side yard setback*, but all other ornamental or screening features, including cornices, sills, frames, and fins, may project no more than 8 inches into any *required yard*. *Moveable awnings* may be placed over doors or windows and may project not more than three feet into any *required yard*. *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.

- e. Pervious Area and Paving for Single Family or Duplex. Where developed as *single-family* or *duplex*, regulations applicable to H30A and H30B for *pervious area*, paving, and curb cuts shall be applicable.
- f. Building Frontage and Width on Harding Avenue. In order to preserve the existing and historical scale and character of the Harding Avenue corridor, including *lots* 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, *building walls* facing Harding Avenue 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 *buildings* facing the public right-of-way on the same *lot* shall be separated by at least 17 feet. The open *areas* created by such separation 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*. The separation area may include a one-story (15 feet maximum height) *breezeway* that is *setback* at least 15 feet from the *building wall* closest to the right-of way.
- g. Rooftop Mechanical Equipment. Rooftop mechanical equipment spaces shall be set back from the perimeter of the roof a sufficient distance so as not to be visible from the property line of the subject *lot*, and screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject *lot*. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

Sec. 90-160. H40.

- A. Generally. See Section 90-157 for general requirements.
- B. Height. Spires, steeples, stair access ways, 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.
 - a. Provided the height limitation of 40 feet is complied with, an area located below the first habitable floor elevation, that is used primarily for *off-street parking spaces*, storage, or recreational amenities, which may include a small enclosed area for access to the *building* such as a lobby or vestibule, shall not be considered a story for the purpose of determining the number of stories of the *building*.

C. Setbacks. The setbacks established in section 90-157 shall be modified as follows:

a. *Alley.* 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.

b. *Parking on First Floor.* When the first floor of a building in a H40 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, 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.

~~12.c.~~ *Through Lots.* Except as otherwise provided in these regulations on through lots, the required front yards shall be provided on each street. In lieu of that stated in section 90-~~155~~157, 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.

~~d. Notwithstanding anything to the contrary within this entire zoning code, height for any building shall always be measured from the crown of the road~~Minimum Rear Setback. The minimum depth of a rear yard abutting Harding Avenue or Collins Avenue shall be 20 feet.

e. *Projections and Encroachments into Required Setbacks.* Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required yard. On lots with less than 75 feet of frontage developed in accordance with subsection D of this section, unenclosed balconies may extend into a required front yard not more than 2.5 feet. Moveable awnings may be placed over doors or windows and may project not more than three feet into any required yard. 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.

D. Multifamily Development of Small Lots. In the H40 district, lots with less than 75 feet of frontage may be used for multifamily development as provided in this code subject to all of the following limitations and requirements:

a. 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 measured from the crown of the road abutting the property.

b. Front setback shall be 25 feet, with other setbacks as stated in section 90-157, Table I, under H40, multifamily.

c. At least 60 percent of the front setback shall be landscaped, except as may be otherwise approved by the Town Commission.

- d. Parking is absolutely prohibited in any portion of the *front yard area*, but is permitted in *side* and *rear yards*.
- e. Unit size minimum *floor area* shall be:

<u>Efficiency</u>	<u>None permitted</u>
<u>One bedroom</u>	<u>1,000 square feet</u>
<u>Two bedrooms</u>	<u>1,150 square feet</u>
<u>Three bedrooms</u>	<u>1,350 square feet</u>

E. Building Frontage and Width on Harding Avenue and Collins Avenue. In order to preserve the existing and historical scale and character of the Harding Avenue and Collins Avenue corridors, including lots 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, *building walls* facing Harding or Collins Avenues 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 buildings facing the public right-of-way on the same lot shall be separated by at least 17 feet. The open *areas* created by such separation 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*. The separation area may include a one-story (15 feet maximum height) *breezeway* that is *setback* at least 15 feet from the *building wall* closest to the right-of way.

- a. Notwithstanding the criteria normally applicable to regular variances, the Town Commission may approve variances from the requirements of this section for *structures* officially designated as Historic or as an *Architecturally Significant Building* based on findings that the variances are the minimal necessary to reasonably redevelop, modify, or renovate the property while preserving the historic or significant character of the *structure* and maintain the scale and character of the district.

F. Accessory Structures. As permitted for H30A and H30B.

G. Pervious Area and Paving for Single Family or Duplex. Where developed as *single family* or *duplex*, regulations applicable to H30A and H30B for *pervious area*, paving, and curb cuts shall be applicable.

H. Rooftop Mechanical Equipment. As permitted for H30C.

Sec. 90-~~the property to the highest part of the roof.~~**161. H120.**

A. Generally. See Section 90-157 for general requirements.

B. Lot Area. Lot area in this district shall be measured from the front property line to the *ocean bulkhead line*.

~~13.~~C. Height. Maximum height shall be measured from the current elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63

NAVD88 (or +18.2 feet NGVD29). In H120, the maximum *building height* to the highest structural part of a *flat roof* or the top of the tie beam or truss for a sloped roof shall not exceed +136.63 NAVD88 (or +138.2 NGVD29). Only those allowances specifically described in ~~Section 90-176 and 90-204~~ this section shall be permitted above the maximum height.

a. Rooftop facilities. Spires, steeples, stair access ways, antennas, cupolas, chimneys, *flagpoles*, ventilators, tanks, elevator equipment rooms and similar architectural features, mechanical equipment spaces, enclosures for *building* infrastructure and/or limited rooftop outdoor amenity spaces, may collectively occupy no more than 30% of the roof area in the aggregate. Enclosures for *building* infrastructure or mechanical equipment and any other non-habitable spaces shall not exceed 20 feet in height measured from the structural roof. A maximum 200 square feet of enclosed habitable space nor more than 10 feet in height measured from the structural roof may be provided for bathroom facilities serving a rooftop outdoor amenity space. Structures open on two or more sides such as trellises or pergolas shall be permitted within any outdoor amenity space provided they do not exceed 10 feet in height measured from the structural roof. All rooftops and elements shall be designed in such a way that said elements meet the spirit and intent of the *Design Guidelines*, do not present a cluttered or drab appearance, and are consistent with the overall aesthetics of the property, as determined by the Planning and Zoning Board as part of Design Review. Rooftop mechanical equipment spaces and limited rooftop outdoor amenity spaces shall be: (1) set back from the perimeter of the roof so that they are not visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines; or (2) be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance; or (3) be set into the roof structure itself without changing the visible contour of the roof as seen from the street so that no equipment or screening is visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

D. Setbacks.

- a. For lots 100 feet or greater in width, each required *side setback* is 20% of the *lot width*. In addition, and in order to encourage variety and innovation in design, *buildings* shall be subject to an average *side setback* of an additional 5% applied to *side setbacks* (25% overall for each side). The required average *setback* for each side shall be calculated and applied to each side elevation overall, as follows:
- a) Multiply the *lot width* by 5%.

b) Multiply that figure by the height in feet from the minimum first floor elevation established by the Florida Department of Environmental Protection as of the date of this ordinance (+16.63 NAVD or +18.2 NGVD) to the top of the structural roof.

c) Multiply the resulting figure by the *depth* of the allowable building on that side (lineal feet between *front setback* and *bulkhead line*) to arrive at the *aggregate volume of average setback*.

d) The *aggregate volume of average setback* must be applied in any one or multiple *areas* throughout the *height* and *depth of the building* (further reducing the *building envelope* created by the 20% required *setbacks*) to reduce the floor width (i.e. parallel to the *lot width*) and/or depth (i.e. perpendicular to the *lot width*), at the discretion of the design professional. *Average setback* may be applied at any point along a floor, mixed and matched among floors, and/or joined with *setbacks* taken from the opposite side elevation.

b. In lieu of providing the above average side *setback*, the property owner may, at its election, alternatively provide a minimum interior *side setback* of 10 feet for the first 30 feet in height (from the minimum first floor elevation established by the Florida Department of Environmental Protection as of the date of this ordinance at +16.63 NAVD or +18.2 NGVD), with the width of each required interior *side yard* increased by one foot for every three feet of building *height* above 30 feet. For corner properties, a *building* shall be *set back* a minimum of 20 feet from a side or secondary street for its entire height. The *setback* herein shall be required for any legal *nonconforming lot* less than 100 feet in width.

E. Projections and Encroachments into Required *Setbacks*.

a. Ornamental Features. Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required *yard*.

b. Balconies.

i. When *setbacks* provide a minimum interior *side setback* of 10 feet for the first 30 feet in height, with the width of each required interior *side yard* increased by one foot for every three feet of *building height* above 30 feet in the H120 district, open unenclosed balconies may extend into a required primary front or secondary (corner) not more than eight feet, and may extend into a required interior *side setback* not more than five feet. Open unenclosed balconies may extend from the rear of the building to a point 12 feet west of the *bulkhead line*.

ii. When average *setbacks* provide a 25% average *side setback* in the H120 district, open unenclosed balconies may extend into a required primary (front) *setback* not more than eight feet. Open unenclosed balconies may extend from the rear of the *building* to a point 12 feet west of the *bulkhead line*. Open unenclosed balconies may extend into a required secondary street (corner) or interior *side setback* as follows:

1. 50% of balcony length on any floor can project no more than 50% of setback or 10 feet, whichever is less; and
 2. the remaining 50% of balcony length on any floor can project no more than 5 feet.
 3. Notwithstanding the above, 75% of all balconies on any floor shall be located at least 15 feet from any secondary street (corner) or interior side property line.
- c. Underground facilities. Underground facilities in an H120 district used primarily for off-street parking spaces and constructed through deep soil-mixing or other method that does not involve driving sheet piles may extend into the side and rear yards to the property lines, provided the top surface of such extensions is not higher than the ground level elevation. 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 as required in this code.
- d. Entrance Feature. Provided a special exception is obtained in accordance with section 90-96, in the H120 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:
- i. The structure must be completely supported (cantilevered) from the main structure;
 - ii. 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;
 - iii. [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]The structure must not exceed 30 feet in width; and
 - iv. The structure must not extend more than 20 feet in the required front yard.
- F. Building Frontage and Width on Collins Avenue. In order to preserve the existing and historical scale and character of the Collins Avenue corridor and to foster compatible scale relationships with abutting districts, so as to assure adequate light, air and open space, the maximum frontage of any building on Collins Avenue (north to south) shall not exceed 150 feet. Adjacent buildings facing the public right-of-way on the same lot shall be separated by at least 40 feet. The open areas created by such separation 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. The separation area may include a one-story (15 feet maximum height) breezeway that is set back at least 15 feet from the building wall closest to the right-of way.
- G. Accessory Structures. 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.

Sec. 90-162. SDB40.

- A. Generally. See Section 90-157 for general requirements.
- B. Height. Spires, steeples, stair access ways, 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. Rooftop Mechanical Equipment. Rooftop mechanical equipment spaces shall be set back from the perimeter of the roof a sufficient distance so as not to be visible from the property line of the subject lot, and screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject lot. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements.

Sec. 90-163. MU and CF.

The lot area, lot coverage, height, setbacks, and floor area for public facilities within the MU and CF districts shall be as approved by the Town Commission at a publicly noticed meeting.

Secs. 90-164 – 90-182. Reserved.

ARTICLE V. SUPPLEMENTARY REGULATIONS

DIVISION 1. GENERALLY

Sec. 90-183. 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:

- (a) All corner properties shall provide and maintain unobstructed corner clearance areas along both the *front* and *side lot* lines; and
- (b) All objects, *fences, walls, gateways, ornamental structures, signs, hedges, shrubbery*, and other fixtures, construction, and planting within any corner clearance areas shall provide unobstructed cross-visibility at a level between 30 inches and eight feet, with the exception of *tree* trunks that do not create a traffic hazard; and
- (c) The property owner shall be responsible for maintaining all *landscaping* within 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; and
- (e) Only *turf* as defined in section 90-85.2 of the Code shall be located within the public-right-of-way between the edge of any roadway or curb and the private property line; and
- (f) The placement of *mulch* within the public right-of-way is prohibited; and
- (g) The Town Manager or designee shall make the final determination regarding unobstructed corner clearance areas.
- (h) If any property owner fails to maintain clearances and conditions required by this section, the Town shall take action pursuant to chapter 15, article I, code enforcement provided that should a property owner fail to remedy the violation within the timeframe provided by the notice of violation or the violation creates an immediate threat to the operation of any utilities or the life safety and welfare, the Town may take action and assess costs pursuant to article III, property maintenance standards of chapter 14.

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

Sec. 90-~~156~~-184. Rooftop photovoltaic solar systems.

(1) —

(1) Intent. The provisions contained herein are intended to promote the health, safety, and general welfare of the citizens by permitting the installation of alternative energy systems while maintaining and adapting to the existing character of the district, subject to conditional use approval.

(2) ~~(2)~~ Conditional accessory equipment. *Rooftop photovoltaic solar systems* shall be conditional accessory equipment to conforming and *nonconforming buildings* and *structures* in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of ~~rooftop~~ Rooftop *photovoltaic solar systems* as accessory equipment to conforming and *nonconforming buildings*, including *buildings* containing *nonconforming uses*, provided *conditional use* approval is first obtained. *Rooftop photovoltaic systems* shall be evaluated for design review on the basis of the overall compatibility with neighboring *structures*, in terms of aesthetics, location, visibility, and integration with new and existing *structures* on the property. Design review approval shall not be denied on the basis of the appearance of the equipment used or limited in any manner that would unreasonably reduce the efficacy of the system. Said systems must be meet or exceed all applicable Florida Building Code requirements for high velocity wind zones.

(3) ~~(3)~~ Height. The height of ~~rooftop~~ Rooftop *photovoltaic solar systems* shall not be greater than five feet above the roof.

(4) ~~(4)~~ Tree removal. Any removal of *trees* shall require a *tree* removal permit from Miami-Dade County.

(5) ~~(5)~~ Maintenance. The ~~rooftop~~ Rooftop *photovoltaic solar system* shall be properly maintained and be kept free from hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare.

(6) ~~(6)~~ Fee Exemption. *Rooftop photovoltaic systems* shall be exempt from application and permit review fees.

~~(Ord. No. 1623, § 2, 7-8-14)~~

~~Secs. 90-157 - 90-175. Reserved.~~

~~ARTICLE V. SUPPLEMENTARY REGULATIONS~~

~~DIVISION 1. GENERALLY~~

Sec. 90-185. Fences, walls and hedges.

~~(1) 176. Modifications~~ Fences and Walls. A fence or ornamental wall that is a maximum of four (4) feet in height (measured from grade) and provides a maximum opacity of 50% for the entire portion above two feet height from grade is permitted in the front, corner, or secondary frontage yard of corner lots, subject to vision clearance requirements. The Planning and Zoning Board shall review the materials, color, and design of the fence or wall to ensure compliance with Design Review Guidelines, architectural integrity and cohesion with the home, and compatibility with neighboring. A fence or wall up to 100% opacity and up to six (6) feet in height as measured from grade shall be permitted in any rear yard or portion of the side yard that is to the rear of the front façade of the house. A hedge of at least four feet up to a maximum height of six feet from grade shall be maintained between the fence or wall and the front or secondary frontage street. 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. **regulations.**

~~(a) A. In the H30A, H30B, and H30C 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. Rooftop photovoltaic systems up to a height of five feet above the roofline and parapets not exceeding 18" above the roofline are exempt from the percentage limitation in this subsection.~~

~~(b) Mechanical equipment shall be permitted on roofs in the H30A and H30B districts, subject to the following requirements:~~

- ~~1. Setback. All equipment shall be setback from the roof perimeter so that it is not visible from eye-level view from grade at a distance of 75 feet from any property line of the structure. This shall be demonstrated by line of sight drawings submitted as part of a zoning approval or design review package.~~
- ~~2. Screening. All equipment shall be further screened by an enclosure of sufficient height which adequately hides the equipment and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street, so that no equipment or screening is visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line.~~

3. The footprint area of the equipment, as defined by the perimeter of the decorative screen enclosure, shall not exceed 7.5% of the total area of the roof upon which it is placed.

4. Rooftop equipment and all screening elements shall not exceed six (6) feet above any roof top.

~~(c) — In the SBD40, and H40 districts, spires, steeples, stair access ways, 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.~~

~~(d) — In the H120 district spires, steeples, stair access ways, 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. Notwithstanding anything to the contrary in this section, any enclosure above the maximum height for any enclosed elements of the building shall be less than 15 square feet. All rooftops and elements shall be designed in such a way that said elements meet the spirit and intent of the Design Guidelines, do not present a cluttered or drab appearance, and are consistent with the overall aesthetics of the property, as determined by the Planning and Zoning Board as part of Design Review.~~

~~(e) — Regulations regarding stories, extensions in certain districts are as follows:~~

~~(1) — An area in an H40 or H120 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, however notwithstanding same, any height restriction herein shall not be exceeded.~~

~~(2) — Underground facilities in an H120 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.~~

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

DRAFT

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

~~(a) Except as otherwise specified in this section, every part of a required yard shall be open to the sky.~~

~~(b) Sills, cornices, roof eaves, and ornamental features may project up to 24 inches into any required yard in all districts except the H30A and H30B districts, and in H30C districts west of Harding Avenue. In the H30A and H30B districts and in H30C districts west of Harding Avenue, eaves of sloped roofs may project up to 24 inches into the side yard setback. All other ornamental or screening features in the H30A and H30B districts, including cornices, sills, frames, and fins, may project no more than 8 inches into any required yard.~~

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

~~(d) In connection with a single family or duplex 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 duplex residence and is not visible from any street or waterway.~~

~~(e) In the H40 district on lots with less than 75 feet of frontage developed in accordance with the supplementary regulations provided in footnote 9 to the District Regulations table in section 90-155, unenclosed balconies may extend into a required front yard not more than 2 1/2 feet.~~

~~(f)a. In all districts except the H120 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.~~

~~(g) In the H120 district, open unenclosed balconies may extend into a required front, side or rear yard not more than five feet. However, provided a special exception 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.~~

~~(h) Provided a special exception is obtained in accordance with section 90-94, in the H120 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:~~

~~(3)i. The structure must be completely supported (cantilevered) from the main structure;~~

~~(4)i. 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;~~

~~(5) The structure must not exceed 30 feet in width; and~~

~~(6) 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. Average Setbacks for H30A and H30B.

~~(a) Average front and side yard setbacks shall be determined in the following manner:~~

- ~~• Multiply the required average setback by the total length of all second-floor walls on the elevation facing the applicable yard~~
- ~~• The total area of the applicable yard at the second floor exclusive of any other yard shall equal or exceed the resulting area.~~

~~(b) H30A and H30B properties shall provide an average front setback (measured against the entire width of the wall parallel to and within 30 feet of the front lot line) as follows:~~

- ~~• Minimum: As per Section 90-155 and~~
 - ~~• Average front setback of 22.5 feet for the second floor where second floor lot coverage is less than 50% of the first floor~~

- ~~Average front setback of 25 feet for the second floor where second floor lot coverage is between 50% and 64% of the first floor~~
- ~~Average front setback of 30 feet for the second floor where second floor lot coverage is between 65% and 80% of the first floor~~

~~(c) H30A and H30B properties shall provide minimum and average side setbacks (measured against the entire width of the wall parallel to and within 20 feet of the applicable side lot line) as follows:~~

- ~~Minimum: As per Section 90-155 or 10% of the lot width, whichever is greater, and~~
 - ~~Average side setback of 15% of lot width at frontage line, where second floor wall length is greater than 20% of the lot depth and second floor lot coverage is between 50% and 64% of the first floor~~
 - ~~Average side setback of 20% of lot width at frontage line, where second floor wall length is greater than 20% of the lot depth and second floor lot coverage is between 65% and 80% of the first floor~~

~~[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 H120, SDB40, and H40 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 H30A district, no building shall be erected within 25 feet of the seawall on Point Lake, north canal, or south canal, nor within 50 feet of the sea wall on any other body of water.~~

~~(d) In the H120 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)a. When the first floor of a building in a H40 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 with typical 50 foot and 75 foot frontage in the H30C and H40 districts and 100 foot to 150 foot frontage in the H120 district, 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 H30C districts, building walls facing Harding Avenue 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 H40 district, building walls facing Harding or Collins Avenues 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 H120 district shall not exceed 150 feet. No building in the H120 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.~~

~~(5)a. Notwithstanding the criteria normally applicable to regular variances, the Town Commission may approve variances from the requirements of this section for structures officially designated as Historic or as an Architecturally Significant Building based on findings that the variances are the minimal necessary to reasonably redevelop, modify, or renovate the property while preserving the historic or significant character of the structure and maintain the scale and character of the district.~~

~~[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:~~

~~(a)(a) All corner properties shall provide and maintain unobstructed corner clearance areas along both the front and side lot lines; and~~

~~(b) All objects, fences, walls, gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting within any corner clearance areas shall provide unobstructed cross-visibility at a level between 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard; and~~

- ~~(a)(c) The property owner shall be responsible for maintaining all landscaping within the corner clearance areas; and~~
- ~~(a)(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; and~~
- ~~(a)(e) Only turf as defined in section 90-85.2 of the Code shall be located within the public right of way between the edge of any roadway or curb and the private property line; and~~
- ~~(a)(f) The placement of mulch within the public right of way is prohibited; and~~
- ~~(g) The town manager or designee shall make the final determination regarding unobstructed corner clearance areas.~~
- ~~(h) If any property owner fails to maintain clearances and conditions required by this section, the town shall take action pursuant to chapter 15, article I, code enforcement provided that should a property owner fail to remedy the violation within the timeframe provided by the notice of violation or the violation creates an immediate threat to the operation of any utilities or the life safety and welfare, the town may take action and assess costs pursuant to article III, property maintenance standards of chapter 14.~~

~~[Code 1960, § 18-32; Ord. No. 1317, § 1, 6-8-93]~~

~~Sec. 90-182. Accessory buildings and structures.~~

- ~~(a)i. 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 and occupies no more than thirty percent (30%) in H30A or twenty percent (20%) in H30B 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. On corner lots in H30A or H30B, the Planning and Zoning Board may approve through design review a reduced setback of a minimum of five (5) feet from either the front or side street property line where the applicant demonstrates that (1) all required vision clearances are met; (2) that the~~

~~fence or wall enclosing the pool complies with the requirements of 90-183.5 and 90-183.6; and (3) that the proximity of the pool and the fence or wall will not result in the structural integrity of either the pool or barrier being compromised.~~

~~(c)i. 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)i. 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)i. A storage 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 Florida Building Code for hurricane force wind resistance; and otherwise meet all applicable requirements of the Florida Building Code.~~

~~[Code 1960, § 18-33; Ord. No. 1371, § 1, 7-8-97]~~

(2) Hedges. Hedges are permitted within the front yard or secondary frontage yard of any H30A or H30B lot provided they do not exceed six (6) feet in height from grade. Hedges along interior side lot lines and rear lot lines may not exceed ten (10) feet in height from grade. Hedges shall consist of Florida Friendly species. Hedges may be higher if granted approval by the design review board, on a case-by-case basis.

(3) Gates. Gates are permitted in any front, corner, or secondary frontage yard of corner lots provided they do not exceed four (4) feet in height from grade and provide no more than 25% opacity. Gates located to the rear of the front façade of the house shall be permitted for access to the interior side yard. The Planning and Zoning Board shall review the materials, color, and design of the gate to ensure compliance with Design Review Guidelines, architectural integrity and cohesion with the home, and compatibility with neighboring.

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

~~90-183.1.A. A fence or ornamental wall not more than six feet in height, as measured from grade, may project into or enclose 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. Any portion of the fence or ornamental wall that exceeds six feet in height as measured from the crown of road shall not exceed 50% opacity.~~

(4) ~~90-183.1.B.~~ Construction fencing. Temporary construction *fences* are required by this ordinance unless otherwise determined by the Building Official. A construction *fence* permit shall be obtained from the Building Department prior to the *fence* being erected. Each *fence* constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.-

a. ~~(a)~~ Permit required. A permit application and a current survey of the site.

b. ~~(b)~~ Permitted fence. Construction *fences* shall be designed in such a manner as to have all exposed materials finished, coated, covered or clad in or with materials such as paint, windscreens, canvases or similar materials, subject to the approval of the ~~town manager~~ Town Manager or designee.

1. ~~(1)~~ The permitted construction fence shall be installed immediately upon removal of the temporary demolition fence. At no time shall the parcel remain without a protective barrier.-

c. ~~(c)~~ Any person or entity found to be in violation of this subsection shall be subject to fines as set forth in the schedule of fines adopted by resolution.

d. ~~(d)~~ A temporary construction fence (as defined herein) shall be installed on the front, side, and rear property lines.

e. ~~(e)~~ Permitted height. All construction *fences* shall be at least six feet high and no higher than eight feet.

f. ~~(f)~~ Locked. The *fence* shall be kept locked when the property is unoccupied.

g. ~~(g)~~ Prohibited fences.

1. ~~(1)~~ The following fences are not permitted, except as otherwise provided in the Code herein below:

~~(a)~~ a. Chain-link fences, unless:-;

1. Chain-link *fences* with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction *fence* for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the *building* and zoning departments.

~~(b)~~ b. Barbed-wire fences.

~~(c)~~ c. Fences made of canvas material.

~~(d)~~ d. Any fences that fail to meet the requirement of the Florida Building Code.

h. ~~(h)~~ Setbacks from property line on Harding Ave and Collins Ave. A temporary *fence* installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the ~~town manager~~ Town Manager. The *setback area* between the temporary *fence* and the property line shall contain a continuous extensively *landscaped* buffer which must be maintained in good healthy condition by the

property owner. No temporary construction permit shall be issued unless a *landscape* plan is approved by the ~~town~~[Town](#) for the buffer. failure to maintain the *landscaping* will result in the ~~town~~[Town](#) taking action to replace same and lien the property for the costs of *landscaping*.

i. ~~(i)~~—Expiration of permit. A temporary construction *fence* permit issued under this chapter shall expire at the completion of construction at which time the temporary *fence* shall be removed in accordance with the terms of the Florida Building Code.

j. ~~(j)~~—Murals and graphics. Graphics and murals on temporary construction *fencing* are prohibited unless approved by the ~~town-manager~~[Town Manager](#) for aesthetic enhancement of the *fence* and advertisement of the project to be constructed.

k. ~~(k)~~—Fees. The ~~town-manager~~[Town Manager](#) or designee may impose fees as he/she may determine appropriate for the *use* of construction *fences* for advertisement purposes in accordance with the schedule promulgated by the ~~building-official~~[Building Official](#).

l. ~~(l)~~—Access gates. All temporary construction *fences* shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.-

m. ~~(m)~~—Temporary construction signs. Construction, erection, and maintenance of temporary construction *signs* shall be governed by Town of Surfside Sign Code.

n. ~~(n)~~—Appeals. Any decision made by the ~~town-manager~~[Town Manager](#) or designee regarding graphics, advertisement, and murals on a temporary construction *fence* may be appealed to the ~~town-commission~~[Town Commission](#).

o. ~~(o)~~—Enforcement and penalties. The code compliance division and building departments shall be responsible for the enforcement of the provisions of this section. Any *person* or entity found to be in violation of this section shall be subject to fines as set forth in the schedule of fines adopted by resolution.-

~~90-183.2 A fence or ornamental wall may be placed within either the front or secondary frontage yard only on corner lots if granted design review approval by the planning and zoning board.-~~

~~90-183.3 Fences or ornamental 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 this section.-~~

~~90-183.4 Front yard and corner yard fences and ornamental walls—Table.-~~

Lot Frontage	Maximum Height (Feet)	Maximum Opacity (Percent)
Less than or equal to 50 ft in width	4 ft	All wall and fence surfaces above two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent
Wider than 50 ft and less than 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 5 ft	
Wider than or equal to 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 6 ft	
Secondary frontage (corner only)	Shall adhere to the height and opacity limitations for corresponding lot frontage	

~~90-183.5 Modification of secondary frontage fence and ornamental wall regulations.~~

- (1) ~~A fence or ornamental wall that has a maximum opacity of 100 percent and a maximum height of six feet, as measured from grade, may project into or enclose the street side yard of a corner lot, provided:~~
 - a. ~~The fence or wall is not placed in front of the front facade of the primary residential structure and extends beyond the plane of the front facade on only one side of the primary residential structure;~~
 - b. ~~The fence or wall is setback three feet from any property line;~~
 - c. ~~Shrubs shall be installed at the time the fence or wall is installed; and~~
 - d. ~~The shrubs shall be planted a minimum of 36 inches in height, shall be placed a maximum of 24 inches on center and shall cover the exterior of the fence or wall within one year after the final inspection of the fence.~~

~~90-183.6 When being installed as a safety feature for a swimming pool in a front or primary corner yard, a fence or ornamental wall shall be permitted at a maximum of four feet in height. The applicant shall demonstrate evidence relative to this hardship.~~

~~90-183.7~~

~~Reserved.~~

~~90-183.8 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.~~

~~90-183.9 Hedges shall be no more than four feet in height in the front yard and side corner yards and ten feet in height in the rear and interior side yards, except as required by section 90-183.5(1). Hedges may be higher if granted approval by the design review board, on a case-by-case basis.~~

(5) ~~90-183.10~~ Under no circumstances is any *fence*, *wall* or *hedge* to be located on a *corner lot* in such a way as to conflict with visibility triangles, vision clearances, or fire codes, including concealment of fire hydrants.

(6) ~~90-183.11~~ 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 115 feet in width shall be permitted, provided that it is understood by the property *owner* that the ~~town~~Town does not waive its right to demand removal without notice as deemed necessary within the ~~town's~~Town's discretion and the ~~town~~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.

(7) ~~90-183.12~~ *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 50 percent covered by boards on the side facing away from the property on which the *fence* is constructed.

(8) ~~90-183.13~~ 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~~Town Manager or designee.

(9) ~~90-183.14~~ The following *fencing* material shall be prohibited:

a. (1) ~~(1)~~ Chain-link and other wire *fencing*, except as permitted herein.

b. (2) ~~(2)~~ Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

(10) ~~90-183.15~~ 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*.

(11) ~~90-183.16~~ 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~~ Town Manager or designee.

(Ord. No. 1520, § 1, 4-14-09; Ord. No. 1529, § 2, 7-15-09; Ord. No. 1549, § 2, 3-9-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1590, § 2, 8-15-12; Ord. No. 1593, § 2, 10-9-12; Ord. No. 1610, § 2, 12-10-13; Ord. No. 1620, § 2, 6-10-14; Ord. No. 18-1689, § 2, 9-12-18; Ord. No. 18-1691, § 2, 12-11-18)

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

Sec. 90-~~184~~186. 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. Army Corps of Engineers, the Department of Environmental Protection, and/or the Department of Environmental Resource Management, which has jurisdiction:~~

~~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.~~

(1) For all properties requesting a marine structure permit as described in Construction of a dock, pier, or mooring structure (each is a “marine structure”) for a waterfront lot may be permitted subject to the following:

a. Lots with Water Frontage on Two Sides. For any lot that has water frontage on two or more sides, a marine structure shall be permitted only on the side fronting on the widest adjacent waterway.

b. Maximum Projection of Specific Lots on Point Lake. For the following lots with water frontage on Point Lake, a marine structure may be constructed to project into a waterway no more than the lesser of either

i. (1) 10% of the width of the lot’s frontage on the waterway, or (2) 10 feet:

ii. Lots 1-4, Block 23A, of Second Amended Plat of Normandy Beach (recorded in Plat Book 16, Page 44); and

iii. Lots 9-18, Block 27 of Second Amended Plat of Normandy Beach (recorded in Plat Book 16, Page 44), as amended by the Second Revised Plat of Blocks 26-27, Second Amended Plat of Normandy Beach (recorded Plat Book 41, Page 6)

c. Maximum Projection of Other Lots on Point Lake. For any other lot with water frontage on Point Lake, or North Canal or South Canal, a marine structure may be constructed to project into the waterway no more than the lesser of either (i) 10% of the width of the adjacent waterway, or (ii) 15 feet.

d. Maximum Projection of Lots on Biscayne Bay and Indian Creek. For any lot with water frontage on Biscayne Bay or Indian Creek, a marine structure may be constructed to project into the waterway no more than the lesser of either (i) 10% of the width of the adjacent waterway, or (ii) 35 feet.

e. Unobstructed Passage. No marine structure shall be permitted where the dock projection and moored vessel together would reduce the adjacent waterway to less than a 25 foot-wide channel at any point along the entire width of the lot's water frontage, in order to ensure that the adjacent waterway allows for the free and safe navigability of typical waterborne vessels in the adjacent waterway.

f. Setbacks. Any marine structure shall be set back at least ten (10) feet from the waterward extension of any property line of the subject lot.

g. Determination of the "width of the waterway." For the purpose of this section, the ~~town manager or designee shall send a mailed~~ "width of the waterway" shall be the narrowest lineal distance from the waterward side of the seawall of the subject lot to the nearest land mass or seawall that is perpendicular to any portion of the subject lot's water frontage.

h. Determination of "maximum projection." The projection of a marine structure shall be measured from the waterward side of the seawall of the subject lot.

(3) Notice. The owner of the subject lot shall provide courtesy ~~notification to all property~~ notices of a building permit application for a marine structure to all owners within 300 feet of the ~~property requesting the~~ lot by first class mail return receipt requested, and shall provide evidence of such mailing to the Town Planner. A building permit for the marine structure shall not be issued earlier than fifteen (15) calendar days from the date that proof of courtesy notices is submitted to the ~~building department~~ Town Planner.

~~(Code 1960, § 18-35)~~

Sec. 90-~~185~~187. Carports and Car Canopies.

A Carport shall be treated as an accessory structure subject to all applicable rules and regulations. A Car Canopy may be constructed, if approved as a conditional use under the provisions of section 90-~~90~~91, in a front, side or rear yard setback in the H30A,

H30B, H30C, and H40 *districts*. Such *Car 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 *Car Canopy* is to be outside the *front yard setback*, 20 feet by 20 feet may be allowed. A *Car 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 *Car 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 *Car 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 *Car Canopy* shall not exceed ten feet, measured from the ground level to the uppermost point of the cover. A *front yard Car Canopy* shall be at least five feet from the side property line. A *Car 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 *Car Canopy* must be entirely concreted or asphalted. Side openings shall be at least six feet, three inches, in height.

(1) Each applicant for a *conditional use* shall submit with his application samples of the actual materials which will cover the *Car Canopy* and a *plot* plan showing the location and dimensions of the *Car Canopy* in relation to the *lot* lines and existing *structures*.

(2) The ~~planning~~Planning and ~~zoning-board~~Zoning Board may 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 a *conditional use*.

(3) Any *conditional use* 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~~Town Manager that the *Car 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 Florida Building Code, the following construction standards for canvas-covered *Car Canopy* are required and shall be complied with:

a. No *Car Canopy* 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 non-flammability. 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-~~486~~188. 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~~Town without a permit from the ~~town~~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~~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 the minimum wind load required by and in accordance with all applicable 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~~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 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 H120, 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~~189. 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~~seawall or other shore protection work along the shore line of Indian Creek in the ~~town~~Town without first obtaining a permit therefor from the ~~town-manager~~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~~186(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~~ Bulkhead Line shall be thoroughly investigated by a registered structural engineer known to the ~~building official~~ 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~~ 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.

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~~ 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)~~(e) All applications for *building* permits in the H30A and H120 *districts* shall include a certified survey showing the point of intersection of the *Indian Creek or ocean* ~~bulkhead line~~ 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. All applications seeking zoning or *building* approval of any kind from the Town that involve new construction or addition(s) that exceed(s)

50% of the replacement value of existing *structures* shall be required to improve the seawall on the property up to all current code requirements.

~~(e)~~(f) 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~~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 duplex districts~~190. Reserved.

~~a. Front yards in the H30A, H30B, H30C, and H40 (where developed as single family or duplex) 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 50 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)i. Where there is a single curb cut for any one property, the curb cut shall not be more than 18 feet in width.~~

~~(2)i. 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)A. 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 50 percent of the side yard shall be landscaped.~~

~~(Code 1960, § 18-39)~~

Sec. 90-~~189~~191. 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~~[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~~[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~~[Town Manager](#), certifying that the installation has been field- checked and meets the requirements set forth above.
- (4) The ~~town-manager~~[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 Florida Building Code.
- (6) 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.
- (7) All lighting shall be controlled by photocell controls.

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

Sec. 90-~~190~~[192](#). Miscellaneous elevations for seawalls, and groins.

- (a) The elevation of all *ocean bulkheads* or ~~sea walls~~seawalls 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 at least 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)~~193.

~~Sec. 90-191.1~~ Aggregation of lots.

~~(1)~~

(1) For all *lots* aggregated in the H30C, H40 and H120 zoning *districts* after April 12, 2011, (the effective date of Ordinance No. 1572), the maximum permitted *density* shall be limited to 85 percent of the total gross *density* permitted by the Comprehensive Plan when *lots* are aggregated.

(2)~~(2)~~—Two or more *lots* of record shall be considered one undivided *parcel* for the purpose of *density* and/or intensity if a special exception is first obtained, and ~~there is the owner records~~ a ~~recorded~~unity of title, after review and approval by the Town Attorney for legal sufficiency, demonstrating single *ownership* of the two or more *parcels* or the parcels have been platted as one *lot*. ~~However Joinder in the unity of title must be effectuated 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. Irrespective of the aggregation of the lots, the underlying land use or zoning shall prevail as to the permitted use on each of the lots. In the event of lot aggregation, the exterior property lines of the undivided parcel shall be used in determining setback requirements, and any setbacks based on lot width or depth shall be calculated on the lot width or depth of the undivided parcel.

~~(3)(3)~~—Aggregated lots shall be contiguous properties but may be separated by a public right-of-way.

(Ord. No. 1572, § 2, 4-12-11)

~~Sec. 90-194. Sec. 90-191.2. Lot splitting in the H30A and H30B Districts Prohibited.~~

~~No platted lot within the H30A or H30B district shall be re-subdivided, split, or reduced in size, in any manner that would increase the number of developable lots depicted in the original plat. In other words, single-family residential building sites shall only be permitted to be enlarged and shall not be made smaller.~~

~~Sec. 90-192. Boat parking.~~

In the following section the term "boat" shall include every description of watercraft or airboat used or capable of being used as a means of transportation on water, including personal watercraft, but shall not include kayaks or canoes or similar non-motorized watercraft. No more than one boat, may be parked on any lot in the H30A or H30B districts subject to the following conditions:

- (a) Boats shall not be *used* for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (b) No boat, or boat trailer shall be parked within the required interior side *setback* and/or required rear *setback*, or project or encroach on any public right-of-way.
- (c) A boat trailer and personal watercraft may be parked in the *front, side, or rear yards*. If parked in the *side or rear yard*, the boat trailer and personal watercraft shall not be visible to the neighboring property. A *fence, wail or hedge*, consistent with the Code, shall be installed in order to limit visibility to the maximum extent possible.
- (d) When parked or stored in the front or *secondary frontage yard* the place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be at least five feet from the interior side or rear property line.

(e) The parking, storage or keeping of any boat or boat trailer shall not obstruct driveways or impede the ability of the abutting property *owner* to maintain the right-of-way clearance. The parking, storage or keeping of any boat or boat trailer shall not cause other vehicles to be parked in rights-of-way so as to create a hazard. The parking or storage of a boat or boat trailer shall not be in conflict with the provisions of 90-52.

(f) If covers are provided for the open part of all boats, the covers for any items must fit to the contours of the boat. The color of the cover should be complimentary to the exterior color of the boat. No tarps shall be used.

(g) Boats, boat trailers, and places of parking shall be kept in a clean, neat and presentable condition. Boats and boat trailers shall not be inoperable, wrecked, junked, partially dismantled or abandoned.

(h) No boat which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, shall be kept on any *lot* for more than 30 days, unless they are stored inside a totally enclosed *building*.

(i) It shall be unlawful to park a boat or boat trailer on any *lot*, unless such *lot* contains a residential *dwelling* and the boat belongs to the occupant of such *dwelling*, a member of his immediate *family*, a resident of the household residing on the property, or a bona fide guest or visitor thereof.

(j) No major repairs or overhaul work shall be made or performed on the premises.

(k) Boats and boat trailers stored on any *lot* in the H30A or H30B *districts* shall be secured or removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.

(Ord. No. 1532, § 2, 9-8-09; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1569, § 2, 3-8-11)

Sec. 90-~~193~~195. Temporary storage of campers and house trailers.

The 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~~Town, nor on private property in the H30A or H30B *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. Pervious Area.~~

~~At least 35% of the Lot Area of any lot in a H30A or H30B district shall be pervious area and remain unbuilt open space.~~

Sec. ~~196~~ – 90-~~195~~~~197~~. Reserved.

Sec. 90-~~196~~~~198~~. 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~~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)

Sec. 90-~~197~~199. Awnings and canopies.

The following Design Criteria are applicable to all *multi-dwelling* and non-residential properties. All new and replacement *awnings* and canopies shall meet these requirements.

(a) ~~a.~~ Location/placement.

1. ~~1.~~ *Awnings* and canopies shall have consistent height and depth subject to the size of the *wall* opening which, the *awning* or *canopy* is affixed.-

2. ~~2.~~ *Awnings* and canopies shall remain consistent with architectural details and proportions harmonious with the overall *building* design and historic context.

3. ~~3.~~ *Awnings* and canopies shall be consistent on multiple storefronts within a larger *building*.-

4. ~~4.~~ After 25 feet in length, an *awning* or *canopy* shall have either a break of a minimum of six inches or articulation of the *awning* or *canopy*, except where otherwise authorized by the Planning and Zoning Board to achieve a more integrated design.-

5. ~~5.~~ *Awnings* shall be attached to the *building* facades and shall not be supported by vertical elements within the right-of-way.-

6. ~~6.~~ *Awnings* shall have a pedestrian scale and be placed so as to provide weather protection.-

7. ~~7.~~ *Awnings* shall be an enhancement to the *building* facade and shall be proportional with and complimentary to nearby *buildings* and *awnings*.-

8. ~~8.~~ *Awnings* shall be mounted in locations that respect the design of the *building* and do not obscure ornamental features over storefronts (i.e. rooflines, arches, materials, banding).-

9. ~~9.~~ *Awnings* shall project a minimum of three feet and a maximum six feet over the sidewalk, not to exceed the width of the sidewalk.

(b) ~~b.~~ Appearance.

1. ~~1.~~ 4.—Awnings shall be fabric or metal. Plastic and vinyl awnings are prohibited, except for First Grade vinyl awnings, subject to design review approval by the ~~planning~~Planning and ~~zoning board~~Zoning Board.

2. ~~2.~~ 2.—Awnings shall be solid colors rather than patterned.-

3. ~~3.~~ 3.—If an awning valance is proposed, it shall be straight rather than curved, except for special architectural elements to be compatible with historic building styles.-

4. ~~4.~~ 4.—Awning colors shall enhance and complement the building and adjacent awnings, rather than overwhelm the building scheme. Colors shall not call more attention to the awning than the building.-

5. ~~5.~~ 5.—Lighting associated with awnings and canopies shall be prohibited, except lighting approved by the ~~planning~~Planning and ~~zoning board~~Zoning Board which is attached underneath the awning and intended to provide pedestrian lighting.-

6. ~~6.~~ 6.—Signage, graphics and lettering shall be prohibited on canopies and awnings.-

(c) ~~e.~~ e.—Construction and maintenance.

1. ~~1.~~ 1.—Awnings shall be mold and UV-resistant.-

2. ~~2.~~ 2.—The awning frame structure shall be finished to match the metal storefront system color or the awning fabric color. The structure shall also be compatible with the window system of the building in terms of placement and materials.-

3. ~~3.~~ 3.—Awnings shall have between a 30 and 50 degree angle, taking into consideration the height of the storefront and wind load requirements.

4. ~~4.~~ 4.—Awnings shall not be torn, frayed, ripped, faded, or stained, soiled or dirty. When not specifically addressed by this ordinance, provisions of the ~~town's~~Town's property maintenance code shall apply.-

5. ~~5.~~ 5.—Maintenance, repair, replacement, and/or removal. All awnings and canopies shall be maintained and kept in good order and repair. Awnings and canopies which are found, upon inspection, to be in disrepair shall be subject to removal and/or replacement in accordance with the commercial standards established in section 14-52 of the Code of Ordinances.-

(d) ~~d.~~ d.—Enforcement.

1. ~~1.~~ 1.—Code enforcement and/or the building department shall be responsible for the enforcement of these provisions. Any person or entity violating these provisions shall be subject to fines as set forth in the schedule of fines adopted by resolution and punishable as provided in section 1-8 and all other applicable sections of the Code of the Town of Surfside.

(Ord. No. 1572, § 2, 4-12-11; Ord. No. 1584, § 2, 1-17-12; Ord. No. 1620, § 2, 6-10-14; Ord. No. 18-1689, § 2, 9-12-18)

Sec. 90-~~198~~200. Materials and finishes.

The following Design Criteria are applicable to all new construction of multi-dwelling and non-residential properties development.

- a. ~~a.~~—The surface shall be ~~stucco~~, stone, metal, glass block and accent wood, or other sustainable finishes. Materials vernacular or characteristic to other regions including but not limited to flagstone and adobe shall be prohibited. The use of low-cost stucco should be minimized in favor of other materials.
- b. ~~b.~~—Materials shall be true and genuine, rather than simulated. Multiple storefronts within a larger *building* shall have consistent material qualities and articulation.-
- c. Glass in H120 and H40 buildings shall be non-reflective or low-iron.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-~~199~~-201. Portable storage units.

1. ~~90-199.1~~ There shall be no more than one portable storage unit allowed per *site*.
2. ~~90-199.2~~ The portable storage unit shall be no larger than 130 square feet in *area* and no higher than nine feet in height.
3. ~~90-199.3~~ Placement: Portable storage units shall be permitted in all zoning *districts* and are subject to the following restrictions:
 - a. ~~(1)~~—In H30A and H30B *districts*: Portable storage units shall generally be placed only in a driveway.
 - b. ~~(2)~~—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.
4. ~~90-199.4~~ Duration of portable storage units shall be limited to the following:
 - a. ~~(1)~~—In H30A, H30B, and H30C *districts*: Portable storage units shall not remain at a *site* in excess of 30 consecutive days and portable storage units shall not be placed at any *one site* in excess of 60 days in any calendar year.
 - b. ~~(2)~~—In H40 and H120 *districts*: Portable storage units shall not remain at a *site* in excess of 14 consecutive days, and portable storage units shall not be placed at any *one site* in excess of 60 days in any calendar year.
5. ~~90-199.5~~ 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.
6. ~~90-199.6~~ 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.

~~7. 90-199.7~~ 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~~ 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~~ Town Manager or designee may permit a portable storage unit to remain at a *site* for a period in excess of such time limitations.

~~8. 90-199.8~~ An application is required prior to the placement of a portable storage unit at any *site*. The application shall be filed with the ~~town-manager~~ Town Manager or designee and shall include the following where applicable; the address and the *use* or occupancy of the *site*; the estimated delivery date and duration of placement; the name and contact information of the portable storage unit *owner*; additional information as may reasonably required by the ~~town-manager~~ Town Manager or designee.

(Ord. No. 1528, § 2, 7-15-09; Ord. No. 1558, § 2(Exh. A), 8-10-10)

Sec. 90-~~200~~202. Accessory buildings and structures in the H30C, H40, SD-B40 and H120 districts.

Non-habitable *structures*, including but not limited to *cabanas*, pergolas, gazebos and trellises shall have a maximum height of 12 feet.

Sec. 90-~~201~~203. Service areas and mechanical equipment.

The following are applicable to all *multi-dwelling* and non-residential properties.

~~a.~~ a.—Service bays, mechanical equipment, garbage and delivery *areas*, shall be fully enclosed, screened or located within the interior of the *building*. These *areas* shall not be visible from the right-of-way and shall not be visible from properties with adjacent residential or *hotel uses*.

~~b.~~ b.—Central air conditioning shall be required for trash rooms.

~~c.~~ c.—All mechanical equipment shall be architecturally screened.

(Ord. No. 1572, § 2, 4-12-11)

Sec. 90-~~202~~—204. Underground and above-ground utilities.

The following are applicable to all *multi-dwelling* and non-residential properties.

- ~~a.~~ ~~a.~~—All utilities including telephone, cable, and electrical systems shall be installed underground.
- ~~b.~~ ~~b.~~—All exterior facilities, including but not limited to electrical ~~raceways~~ Raceways and transformers, permitted above ground shall be fully concealed and screened.

Sec. 90-~~203~~205. Architecture.

~~(1)~~ ~~(1)~~—Elevation and facade articulation variations.

~~a.~~ ~~a.~~—The architectural design of proposed *main buildings* shall create a unique elevation compared to the *main buildings* of the adjacent two *buildings* 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 of the following architectural features:

- ~~1.~~ ~~1.~~—Length, width and *massing* of the *structure*;
- ~~2.~~ ~~2.~~—Number of stories;-
- ~~3.~~ ~~3.~~—Facade materials;
- ~~4.~~ ~~4.~~—Porches and other similar articulation of the front facade;
- ~~5.~~ ~~5.~~—Number and location of doors and windows; and-
- ~~6.~~ ~~6.~~—Roof style and pitch.-

~~(2)~~ ~~(2)~~—In the H30C, H40 and H120 *districts*: when more than one *building* is provided, *buildings* shall be designed in such a way that they are not monotonous.

~~(3)~~ ~~(3)~~—All elevations for new *structures* and *multi-story* additions (additions greater than 15 feet in height) shall provide for a minimum of ten-percent *wall* openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades per *story*.

~~(4)~~ ~~(4)~~—All elevations for single *story* additions to existing *structures* shall result in a zero percent net loss of *wall* openings including windows, doors or transitional spaces defined by porches, porticoes or colonnades.

~~(5)~~ ~~(5)~~—Roof colors, and the colors of any rooftop enclosures, shall meet a minimum solar reflectance of 40, and be composed of only the following materials:

- ~~a.~~ ~~a.~~—Clay tile; or
- ~~b.~~ ~~b.~~—White concrete tile; or
- ~~c.~~ ~~e.~~—Solid color cement tile which color is impregnated with the same color intensity throughout;
- ~~d.~~ ~~d.~~—Architecturally embellished metal; or

~~e.~~ e.—Other Florida Building Code approved roof material(s) if granted design review approval by the ~~planning~~Planning and ~~zoning-board~~Zoning Board.

~~(6)~~ (6)—Garage facades. Attached garages located at the front of a *single family* home shall not exceed 50 percent of the overall length of the facade.

~~(7)~~ (7)—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 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*. When the installation of *landscaping* results in insufficient *off-street parking*, a *landscaped* planter shall be permitted in lieu of the required *landscaping*. 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~~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 24 inches into the side or rear *setbacks*.

~~(8)~~ (8)—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*.

~~(9)~~ (9)—Paint colors. *Structures* in the H30A and H30B zoning *districts* shall be permitted to be painted the four lightest colors for the *structure's* primary color on the color swatch on file in the *building* department. All other colors may be accent colors. A paint swatch shall be submitted to the *building* department for approval by the ~~town manager~~Town Manager or designee. The ~~planning~~Planning and ~~zoning-board~~Zoning Board shall make a design determination in cases of uncertainty.

Sec. ~~90-204~~206. Roof deck provisions.

~~(1)~~ (1)—*Roof decks* shall be permitted~~-only~~ in H40, H120, SD-B40 and MU zoning *districts*, where not improved with or adjacent to *single-family* residential, and limited to:

a. ~~a.~~—A maximum of seventy (70) percent of the *aggregate* roof *area* of the floor directly below the roof deck;

b. ~~b.~~—Shall not exceed the maximum roof height required by any abutting property's zoning designation;

c. ~~c.~~—Shall be *setback* from the roofline at least ten feet on all sides to provide for minimal visibility of *roof decks* from any public way, except on properties designated SD-B40; and

(2) ~~(2)~~ A roof deck shall not be permitted in the H30B district.

(3) A roof deck may be permitted in the H30A district with Planning and Zoning Board approval applying the conditional use standards, subject to the following requirements:

- a. All elements of the roof deck, including decking, railings, access stairs, hand-rails, screening, and shade structures, shall not exceed the maximum height of 30 feet from the crown of road;
- b. the usable roof deck shall be set back from all vertical extensions of the exterior walls of the floor underneath by at least 10 feet for any side walls of the building, and by at least 20 feet from the any front and rear walls of the building;
- c. A maximum of forty percent (40%) of the aggregate roof area of the floor directly below the rood deck; and
- d. Notice provided to single family neighbors as required for the Planning and Zoning Board shall include a copy of the plans.

(4) A roof deck may be permitted in the H30C district with Planning and Zoning Board approval applying the conditional use standards, subject to the following requirements:

- a. All elements of the roof deck, including decking, railings, access stairs, hand-rails, screening, and shade structures, shall not exceed the maximum height of 30 feet from the crown of road;
- b. Where the roof deck is on a first story roof not exceeding 20 feet in height from the crown of road, the roof deck shall be set back from all vertical extensions of the exterior walls of the floor underneath by at least 5 feet;
- c. Where the roof deck (and any elements of the deck including decking, railings, access stairs, hand-rails, screening, and shade structures) is on a second story or a first story exceeding a roof height of 20 feet from the crown of road, the usable roof deck shall be set back from all vertical extensions of the exterior walls of the floor underneath by at least 10 feet for all sides; and
- d. Notice provided to single family neighbors as required for the Planning and Zoning Board shall include a copy of the plans.

(5) 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~~ Building Official the following issues:

- a. ~~a.~~ How will the existing roofing system be protected or replaced to allow for the new use;
- b. ~~b.~~ Structural support strategies for any increase in live loads and dead loads;
- c. ~~c.~~ Compliance with applicable ADA requirements;

~~d.~~ d.—Location of plumbing and mechanical vent stacks, fans and other appurtenances;

~~e.~~ e.—Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;

~~f.~~ f.—Added occupancy and servicing restroom facilities; and

~~g.~~ g.—All other issues applicable in the Florida Building Code.

~~(3)~~—

(6) 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-~~205-90-205. Reserved~~207. Sustainability.

All new construction, except *single family* or *duplex* construction, shall at minimum meet the standards for LEED Silver or its equivalent as determined by the Building Official.

Division 2. Signs.

Sec. 90-~~206.-208.~~ 208. General and miscellaneous provisions.

(a) Scope: The provisions of this article 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 article. 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 article.

(b) Purpose: This article shall be known as the “Town of Surfside *Sign Code*.” The purpose of the code is to improve and advance the governmental purpose of 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.

(c) Substitution of non-commercial speech for commercial speech: Notwithstanding any provisions of this article to the contrary, to the extent that this article permits a *sign* containing commercial *copy*, it shall permit a ~~non-commercial~~ Commercial *sign* to the same extent. The non-commercial 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 non-commercial, or from one non-commercial 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 article.

(d) Severability:

(1) Generally: If any part, division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article 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 article.

(2) Severability where less speech results: This article shall not be interpreted to limit the effect of subsection 90-~~206~~208(d)(1), or any other applicable severability provisions in the Code of Ordinances or any adopting ordinance. The ~~town-commission~~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~~Town, whether by subjecting currently exempt *signs* to permitting or by some other means.

(3) Severability of provisions pertaining to prohibited signs: This division shall not be interpreted to limit the effect of subsection 90-~~206~~208(d)(1) above, or any other applicable severability provisions in the Code of Ordinances or any adopting ordinance. The ~~town-commission~~Town Commission specifically intends that severability shall be applied to 90-~~213~~215, "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 subsection 90-~~206~~208(d)(1) above, or any other applicable severability provisions in the Code of Ordinances or any adopting ordinance.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-~~207~~-209. Definitions.

Words and terms not defined shall be interpreted in accord with the normal dictionary meaning and the customary usage of the word shall apply.

1. Area: The entire perimeter of a *sign* which encloses visually communicative *copy* such as letters, symbols, or logos, including the advertising surface and any framing, trim, or molding including the supporting *structure*.

2. ——— Area of a ground-affixed letter or number sign: The square footage of a ~~ground~~Ground-affixed letter or number sign shall be the aggregate surface area of all letters and numbers comprising the *sign*, based only on the principal surface of the *sign* and excluding any supporting *structure*. No fictional border or frame shall be imputed to the *area* size.

3. ——— Awning sign: a *sign* that is a part of or attached to an *awning*, *canopy*, or other material or structural protective cover mounted over a door, entrance, window, or outdoor service *area*.

4. ——— Bandit sign: A *sign* made of corrugated cardboard or similar material placed on wire support poles typically placed within right-of-ways or on private property.

5. ——— Balloon sign: An inflatable *sign* which may be tethered.

6. ——— Banner sign: A *sign* composed of lightweight, flexible material suspended between two points.

7. ——— Billboard sign: A significantly large *sign* designed to dramatically attract the attention of the travelling public. Such *signs* are used to advertise or communicate goods or services typically not sold, generated, or provided on the *site* where the *sign* is located.

8. ——— Business hours sign: A small *sign* indicating the hours during the day in which *business* is commonly conducted.

9. ——— Cabinet sign: Any *sign*, the face of which is enclosed, bordered, or contained within a hinged box-like *structure*, frame, or other device.

10. ——— Changeable copy: A *sign* or portion thereof on which letters, illustrations or symbols are replaced automatically or manually.

11. Commercial sign: A *sign* that identifies, advertises or otherwise attracts attention to a product or *business*.

12. ——— Conforming sign: A *sign* that is legally installed in accordance with local ordinances.

13. ——— Copy: The content of a *sign* including words, letters, numbers, figures, designs, logos, graphics, colors, or other symbolic representation incorporated into a *sign* for the purpose of attracting attention.

14.—Entry feature: An architectural feature that identifies a residential or *hotel building*. Such architectural features may include columns, trellises, ornaments, metalwork, light fixtures and similar decorative elements to enhance the attractiveness of the *structure* and shall be consistent with the architecture of the primary *structure*. A *sign* shall be permitted and the size of that *sign* is limited to the *area* within a continuous perimeter enclosing the letters, symbols or logos.

15.—Flag: A piece of fabric or bunting with a color or pattern that represents a government, or other non-commercial organization or idea.

16.—Freestanding sign: A *sign* mounted on one or more supports including uprights, braces, columns, poles, posts, or other similar structural components which are placed on or into the ground, and not attached to a *building*.

17.—Frontage, building: The length of the exterior *building wall* of a single premise oriented towards the public way or other properties it faces.

18.—Frontage, street: The distance along which the *lot line* of a property adjoins a public *street*.

19.—Fumigation warning sign: A *sign* indicating a lethal gas to exterminate pests is in *use* in a *building*, residence or premise. Warning *signs* are posted in plainly visible locations or the immediate vicinity of all entrances. Absolutely no people or pets may enter a *structure* with a posted warning *sign*.

20.—Ground-affixed letter or number sign: A *sign* using letters and/or numbers in which each letter or number is affixed to the ground and which has no frame or border surrounding the letters or numbers.

21.—Home business sign: A *sign* indicating a small *business* operating from the owner's home office or residence.

22.—Individually-mounted letter sign: A *wall sign* using letter forms which are singularly affixed to the *sign* surface.

23.—Illuminated: A *sign* which is lighted by either an internal electrical source, an external source separate from the *sign* itself, or back-lit.

24.—Marquee: A roof-like *sign structure* commonly placed over the entrance to a *hotel* or theater often identifiable by a surrounding cache of intermittent or chasing lights.

25.—Menu sign: A *sign* indicating food items or products served on the premises.

26.—Monument sign: A free-standing *sign* generally having a low profile where the base of the *sign structure* is on the ground independent of the *building, wall* or *fence*, but does not include a *pole sign*.

27.—Non-commercial sign: A *sign* that does not contain *copy* that advertises or promotes the availability of any merchandise, service, institution, residential *area*, entertainment, or activity. Such *sign* typically conveys an opinion, idea, or concept; or displays a civic, political, religious, seasonal or personal message.

28.—Non-complying sign: Any unlawful *sign* that has not been erected in accordance with one or more standards or *regulations* of the Code.

29.—Non-conforming sign: A *sign* or advertising *structure* which was lawfully erected and maintained prior to the enactment or amendment of the Code, which by its height, type, square foot *area*, location, *use* or structural support does not conform to the current standards or *regulations* in effect.

30.—Off-premise sign: 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.

31.—Open/closed sign: a small *sign* usually hung in a storefront window announcing a *place of business* is open or closed for *business*.

32.—Permanent sign: A sign attached to a *building, structure*, or the ground that is entirely constructed out of durable materials designed to resist environmental loads, such as wind, and is fixed in place in such a manner as to inhibit easy removal or movement of the *sign*.

33.—Pole-mounted sign: A free-standing *sign* mounted on a pole, post, or other vertical support.

34.—Portable sign: Any *sign* mounted on or supported by a moveable frame or object of any kind including A-frame, sandwich board, *signs* attached to mannequins, *signs* mounted on tables or chairs or any other similar type of *signage* primarily designed to attract the attention of sidewalk traffic.

35.—Projecting sign: Small pedestrian *sign* typically supported by a decorative chain or bracket that projects perpendicular from the face of the *building*, located above the storefront entry and oriented to the pedestrian.

36.—Primary business sign: An establishment's principal *sign* which identifies the *business* to a passerby, communicating the most pertinent information.

37.—Push-through sign: lettering or logo image cut through the ~~sign~~*Sign* face and backing material which is mounted or inlaid in such a way that the *sign* looks as if the lettering or image has been pushed through, up, and out of the *sign*.

38.—Raceway: a horizontal or vertical structural element on which *sign* letters are mounted that houses electrical conduit for illumination.

39.—Real estate sign: A ~~temporary~~*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."

40.—Reverse channel sign: A *sign* comprised of individual letters or images that are independently mounted to a *wall* or other surface, with lights mounted behind the letters. The lights face the *wall* behind the letters illuminating the space around the letters rather than the letters themselves, creating a "reverse" lighting effect or "halo" effect.

41.—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.

42.—Secondary business sign: A *sign* which communicates or identifies accessory information or *uses* other than the primary *business* or *use*.

43.—Sign: Any *structure* and all parts composing the same, together with the frame, background or support, or any other object used for display or advertising purpose designed to attract the attention of the public.

44.—Sign face: The portion of a *sign* on which *copy* is intended to be placed, exclusive of any supporting *structures*.

45.—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.

46.—Temporary sign: A *sign* which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently.

47.—Umbrella sign: A *sign* located on an umbrella commonly used as shelter for sidewalk tables.

48.—Wall sign: A *sign* attached directly to an exterior *wall* of a *building* or dependent upon a *building* for support with the exposed face of the *sign* located in such a way as to be substantially parallel to such exterior *building wall* to which it is attached or supported by.

49.—Window sign: Any *sign* that is visible from the exterior of a *building* through an open or closed window or door including *signs* attached to, suspended behind, placed on or near, or painted upon such window or door.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 1653, § 2, 10-13-16 ; Ord. No. 18-1668 , § 2, 1-9-18; Ord. No. 18-1675 , § 2, 2-13-18)]

Sec. 90-~~208~~-210. Sign permits.

(a) Sign permit required. Except as otherwise provided in this Code, no permanent shall be erected, constructed, posted, painted, altered, maintained, or relocated until a *sign* permit has been issued by the ~~town~~Town.

(b) Exempt signs. The following *signs* are allowed and exempt from permit requirements:

- (1) National *flag*. A *flag* displayed in a window shall not exceed 20 percent of the window glass *area*.
- (2) Banners erected by the ~~town~~Town including *street* pole banners.
- (3) Non-~~illuminated~~illuminated numerical address.

(4) *Open/closed sign* suspended behind a glass window or door provided the *sign* does not exceed one (1) square foot. The *sign* may be ~~illuminated~~*illuminated* by white internal illumination. *illuminated signs* shall not be allowed to blink intermittently.

(5) Non-~~illuminated~~*illuminated* *business hours sign* suspended behind a glass window or door provided the *sign* does not exceed one square foot.

(6) All ~~temporary~~*Temporary* signs as provided in section 90-~~212~~*214*.

(7) *Menu sign* not exceeding two square feet displayed on the *wall*, window, or front door of a sit-down ~~restaurant~~*Restaurant* within the SD-B40 *district* only.

(8) Plastic or metal *wall sign* not larger than 16 inches in width and five inches in height stating "Managed by _____" with the name of the individual, partnership or corporation that manages a *building*.

(9) *Fumigation warning sign* as required by the Department of Agriculture and Consumer Services.

(c) Application. Before any permit is issued, a written application, in the form provided by the ~~town~~*Town*, shall be filed, together with such drawings and specifications as may be necessary to fully advise the ~~town~~*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 working 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 working days period. Upon resubmission of the application, staff shall have five additional working 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."

(d) Building code requirements. Structural and safety features and electrical systems shall be in accordance with the requirements of the ~~town's~~*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.

(e) Electrical permit requirements. All *signs* that are electrically ~~illuminated~~*illuminated* shall require a separate electrical permit and inspection.

(f) Local business tax receipt requirements. No local *business* tax receipt shall be issued for a new *business* until all *signs* associated with the former *business* have been removed.

(g) Permit review. All *signs*, unless otherwise exempt, shall be subject to review by the Planning and Zoning Board. In evaluating an application for a *sign* permit the board shall consider the following:

- (1) Whether or not the *sign* complies with the requirements of the code.
- (2) The quality of materials used and their relationship to the architecture of the *structure* and streetscape.
- (3) The overall concept associated with the proposed *sign*.
- (4) The detail of the design including text and graphics proposed.
- (5) The *illumination*, surface colors, finish, width, depth, and dimensions of the proposed *sign*.
- (6) The appropriateness of the *sign* to the spirit and intent of the Code.

(h) Failure to commence. Every *sign* permit issued by the ~~town~~Town shall become null and void if installation is not commenced within two years from the issue date of such permit. If work authorized by such permit is suspended or abandoned for 180 calendar days any time after the work is commenced, a new permit must be obtained and approved by the Planning and Zoning Board. The fee will be the full amount required for a new permit for such work.

(i) Revocation. The ~~town~~Town may suspend or revoke, in writing, a permit issued under provisions of this Code, 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~~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~~Town Commission within 15 calendar days after receipt of the written notice of revocation. The Town ~~commission~~Commission shall hear the appeal within 30 calendar days after the date of receiving the written notice of appeal.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-~~209~~-211. Sign design and appearance.

(a) *Signs* shall be professional in appearance.

- (b) *Signs* shall not be the dominant feature of a location and shall be scaled in accordance with the size of ~~conforming~~Conforming *signs* on adjacent and nearby properties.
- (c) *Signs* shall be well designed, unique, and integrated into the *building* façade so as not to detract from the architectural character of the *building* or the context of the surrounding streetscape.
- (d) *Sign* colors shall be complementary to or enhance the main color of the *building* façade. The *use* of established *business* colors or company logos or trademarks shall not be prohibited by this requirement.
- (e) *Signs* shall have a proportional and dimensional relationship between the *building*, text, graphics, and spacing.
- (f) *Sign copy* shall be simple and concise without excessive description of goods, services, products. Unless otherwise provided in this Code commercial *copy* shall be limited to the trade name or franchise name of the *business* or the primary product or service.
- (g) *Signs* shall be weather resistant and professionally constructed of high-quality, durable material in accordance with the Florida Building Code unless otherwise exempt.
- (h) 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.
- (i) *Signs* shall be properly maintained and kept in proper working order. Any damaged or defective ~~conforming~~Conforming *signs* shall be removed and repaired within 90 calendar days. Damaged or defective ~~non-conforming~~Conforming *signs* shall be replaced with a ~~conforming~~Conforming *sign* that meets the requirements of this Code.

[Ord. No. 1624, § 2, 8-12-14]

Sec. ~~90-210.-~~212. Sign removal.

- (a) *Permanent signs*. Upon the vacation of a premise, any *sign* associated with the previous *owner* or lessee including letters, numbers, logos, or any other visual communication associated with the vacated premise, shall be removed by the current *owner* or lessee within 30 days of the transfer of *ownership* or cessation of the previous *business* activity. Any visible holes shall be painted and filled. *Sign* structure may remain in place provided no identifying features of the previous

business activity are visible and the *sign* structure is conforming per the requirements of the code.

(b) Temporary signs. Notwithstanding the time limitations set forth in Section 90-~~212~~214, all outdoor ~~temporary~~Temporary signs shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-~~211~~-213. Permanent signs by district.

(a) SD-B40 Zoning District.

(1) Content. *Commercial signs* may only include the trade name, logo of the establishment, the nature of *business* or services rendered, or products sold on the premises. *Signs* may not include phone numbers or any reference to price.

(2) Signage for upper floor tenants. Each upper floor tenant shall be entitled to erect ~~permanent~~Permanent signage. The total square footage of all second floor signage shall not exceed 80 percent of the allowable signage square footage for the first floor signage, provided such sign meets all of the requirements of this subsection. In addition, each upper floor tenant shall be entitled to erect a single sign, not over one-hundred and 108 square inches in size, at the entrance or lobby of the building which provides egress to the upper floor.

(3) Permitted signs.

a. Projecting sign. Projecting signs on either the ground level or upper floors shall not be permitted for upper floor tenants. The maximum sign area for ~~projecting~~Projecting signs shall be eight square feet. The maximum lettering height shall be six inches unless otherwise integrated into a creative graphic design as approved by the Planning and Zoning Board. Signs shall not project more than five feet from any main building wall nor shall they be mounted above ground level tenant space. Encroachment into the right-of-way including sidewalks shall only be permitted where it can be demonstrated that there is a minimum vertical clearance of eight feet. Decorative bracket treatments are encouraged. Projecting signs shall not have electric lights, attached electric fixtures, or any manner of illumination.

b. Individually-mounted letter sign. The total area of all ~~individually~~Individually-mounted letter signs shall be one square foot for each lineal foot of frontage of the lot or portion of the lot upon which the operating enterprise is located. For frontages less than 25 feet, a total sign

area up to 25 square feet maximum shall be permitted. In no case shall the total *sign area* on any single operating enterprise exceed 150 square feet and no single *sign* shall exceed 45 square feet.

1. Types. The following types of ~~individually~~*Individually-mounted letter signs* shall be permitted. No open face channel letters shall be permitted.

- i. Reverse channel letter.
- ii. Push-through letter.
- iii. Pan channel letter.
- iv. *Raceway* mounted letter. All exposed ~~raceways~~*Raceways* must be painted to match finish of *wall* face of the *building*.

2. Offset. *Signs* shall be off-set from the *wall* a minimum of one quarter inch to a maximum of two inches to permit rain water to flow down the *wall* face. This is not applicable to push-through or ~~raceway~~*Raceway* mounted lettering.

3. Illumination. All *signage*, lettering, logos or trademarks shall be required to be lit with white illumination from dusk to dawn. The illumination may be either internal illumination or external illumination, however, all *walls* below the *sign* shall be ~~illuminated~~*illuminated* with white *wall* wash LED lighting. It shall be located and directed solely at the *sign*. The light source shall not be visible from or cast into the right-of-way, or cause glare hazards to pedestrians, motorists, or adjacent properties. Lighting shall meet all applicable electrical codes. Intensities of illumination shall be approved by the ~~building official~~*Building Official* of the ~~town~~*Town* before issuance of a *sign* permit. A maximum of ten foot candles is permitted on any portion of a *sign* to be measured at the centerline of the adjacent sidewalk. A foot candle is defined as a unit of illuminance or light falling onto a surface. It stands for the light level on a surface one foot from a standard candle. One foot candle is equal to one lumen per square foot. A lumen is the basic measure of the quantity of light emitted by a source.

c. Permanent window sign. One primary *sign* may be applied to the inside or outside surface of any one glass window or door or displayed within 12 inches of a glass window or door. Such *signs* shall only be permitted on primary and side *street* level *frontages*. *Sign area* inclusive of logos or trademarks shall not exceed 20 percent of the *area* of the glass window or door in which the *sign* is displayed. Lettering shall not exceed eight inches in height. Acceptable materials include painted gold leaf or

silver leaf, silk-screened, cut or polished metal, cut or frosted vinyl, and etched glass.

d. Television screen or similar. Television screens or similar electronic features may be located inside the storefront and project out to the sidewalk. These features shall be oriented towards the pedestrian and angled to be parallel to the sidewalk. Television screens or similar electronic features shall not exceed 20 percent of the *area* of the glass window if the feature is within 36 inches of the window. Television screens or similar electronic features located greater than 36 inches away from a window shall be permitted to exceed 20 percent of the *area* of the glass window. A maximum of ten foot candles of illumination shall be permitted from any television screens or similar electronic features to be measured at the centerline of the adjacent sidewalk.

e. Emergency address sign. Commercial *buildings* in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6 shall be required to provide an emergency address *sign* on the *alley* side of the *building* clearly identifying the address of the establishment. *Signage* may be *wall* mounted or posted on a rear door. *Sign* material shall consist of weatherproof reflective 3-inch or 4-inch address panels.

(b) H30C, H40, MU and H120 zoning districts.

(1) *Signage* on the outside of a *hotel*, *multifamily building*, or other similar *structure* which identifies a secondary *business* within the same *structure* is prohibited. Supplemental *signs* as permitted in this subsection shall be exempt from this requirement.

(2) Content. Commercial signs may only include the trade name, logo of the establishment, the nature of *business* or services rendered, or the products sold on the premises, except as otherwise provided in this Code. *Signs* may not include any reference to rates.

(3) Permitted signs.

a. Individually-mounted letter sign. Permitted as under the requirements of section 90-~~73211~~213(a)(3)b., except total *sign area* for *multi-family dwellings* within the H30C and H40 *districts* shall not exceed 75 square feet.

b. Monument sign. One ~~monument~~Monument *sign* shall be permitted per *street frontage*. The maximum *sign area* shall not exceed 25 square feet. The maximum height shall not exceed five feet from the ground. *Signs* shall maintain a five-foot *setback* from all property lines and no portion shall be permitted to project within this five-foot *setback area*. *Signs* are

required to be *landscaped* at the base. *Signs* may be internally or externally ~~illuminated~~illuminated.

c. Supplemental sign. A *sign* for any establishment reading “Office,” “Vacancy,” “Private Beach,” “Swimming ~~Pool~~pool,” “Cabanas,” “Coffee Shop,” “*Restaurant*,” or other such wording shall be considered a supplemental *sign*. Such *signs* shall be limited to three square feet in size; except in the H120 *district*, a *hotel* with a ~~restaurant~~Restaurant may display an individual *sign* not to exceed five square feet in size containing the name of the ~~restaurant~~Restaurant. The total combined square footage of individual supplemental *signs* shall not exceed eight square feet per *main building*. Such *signs* shall not be included in calculating the total maximum *sign area* for the *lot*. *Signs* shall be dignified in character and shall be restricted to the wording described above.

d. Parking sign. Parking *signs* not over four square feet in size may be erected at each exit or entrance of *parking lots* serving *buildings* in these zoning *districts*. Such *signs* may be ~~illuminated~~illuminated by indirect lighting only. Lettering on these *signs* shall be limited to the name and address of the primary *business, multifamily building* or *hotel*, and the words “Entrance” or “Entrance Only,” “Exit” or “Exit Only,” “Parking,” “Resident Parking,” “Guest Parking,” “Visitor Parking,” “Private Parking,” “Valet Parking,” or “Customer Parking.”

e. Emergency address sign. *Buildings* on the east side of Collins Avenue abutting the beach walking path shall be required to provide an emergency address *sign* identifying the name and address of the *building*. *Sign* shall be mounted on a free-standing post not to exceed 18 inches in height and 24 inches in width. Address letters and numbers shall not exceed two inches in height and name shall not exceed one inch in height. *Sign* material shall be weatherproof and reflective so as to be clearly visible at night.

f. Electric vehicle charging station sign. A *sign* shall be posted at the ~~electric~~Electric vehicle charging station stating “*Electric* ~~Vehicle Charging Station~~vehicle charging station.” *Signs* shall be no greater than 24 inches wide by 18 inches high. Color and letter size specifications shall meet the Manual on Uniform Traffic Control Devices (MUTCD) requirements for *sign* designation (electric vehicle charging).

g. Ground-affixed letter or number sign. The total *area* of each ~~ground~~Ground-affixed letter or number *sign* shall not exceed 20 square feet. The height of each *sign* shall not exceed five feet from the ground. The depth of each *sign* shall not exceed one foot. The total length of all such *signs* for each property shall not exceed 25 percent of the *frontage of a lot*.

All ~~ground~~Ground-affixed letter or number signs shall be set back two and one-half feet from the right-of-way.

(c) H30A and H30B Zoning Districts.

(1) Wall sign. Sign shall be attached to the main façade of the *building* and shall not exceed four square feet. Sign shall be installed and secured tightly to the *building*. No loose, non-secure attachments shall be allowed. Sign shall be rigid and weatherproof. Sign shall not be ~~illuminated~~illuminated in any manner.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 1617, § 2, 3-11-14 ; Ord. No. 18-1668 , § 2, 1-9-18]

Sec. 90-~~212~~-214. Temporary signs.

(a) Real estate sign.

(1) SD-B40 district. One professionally lettered ~~real~~Real estate sign shall be permitted per *building frontage*. The maximum sign area shall be three square feet. The sign shall be mounted flat against the *building wall* or a minimum of 12 inches from a window, and shall not project above the eave line of the *building*.

(2) All other zoning districts. One professionally lettered ~~real~~Real estate sign shall be permitted per *street frontage*. The sign shall be wall mounted flat against the *building wall* or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign panel area shall be 18 inches by 24 inches. A maximum of two riders shall be permitted to attach above or below the main sign panel not to exceed six inches by 24 inches per rider for in-ground signs. The maximum sign height for in-ground signs including support frame shall not exceed 42 inches from the ground to the top of the sign. Such sign shall be located outside of any sight visibility triangle. No portion of the sign shall extend across the property line.

(3) All ~~real~~Real estate signs shall be black and white and may include a trademarked logo or symbol.

(4) Sign shall be constructed of rigid, weather proof materials.

(5) Sign shall not be lighted or ~~illuminated~~illuminated in any manner.

(6) Sign shall be removed within seven days of a *lot*, *building*, residence or tenant space being leased, rented or sold.

(b) SD-B40 district. Three professionally lettered ~~temporary~~Temporary signs, excluding banners, shall be permitted per *building frontage*. The maximum *sign area* shall be three square feet per *sign*. The *sign* shall be mounted flat against the *building wall* or window, and shall not project above the eave line of the *building*.

(c) All other zoning districts. Three professionally lettered ~~temporary~~Temporary signs shall be permitted per *street frontage*. The *sign* shall be *wall* mounted flat against the *building wall* or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum *sign area* shall be three square feet per *sign*. *Sign face* shall be constructed of metal, plastic, wood, pressed wood or cardboard. The maximum *sign* height for in-ground *signs* including support frame shall not exceed 42 inches from the ground to the top of the *sign*. Such *sign* shall be located outside of any sight visibility triangle. No portion of the *sign* shall extend across the property line.

(d) [Erected signs; duration.] Signs shall not be erected more than 90 days prior to the event or occurrence and shall be removed no later than seven days after the event or occurrence.

(e) [Illumination; prohibited] Signs shall not be lighted or ~~illuminated~~illuminated in any manner.

(f) [Affixing sign to public rights-of-way or property; prohibited.] It shall be unlawful for any *person* to paste, glue, print, paint, affix, or attach by any means whatsoever to the surface of any public *street*, right-of-way, easement, sidewalk, curb, or to any property of any governmental body or public utility, any ~~temporary~~Temporary *sign*.

(g) Temporary signs placed on construction sites.

(1) One professionally-lettered *sign* shall be permitted per construction *site* or development subject to the issuance of a *building* permit for the project. Such *sign* can be located on a *wall* or *fence*, or may be freestanding. The purpose of the *sign* is identification, and it may only identify the property, *owner* or agent, contract, or professional affiliations, property address and telephone numbers that are involved in the construction of improvements on the property. It may be constructed of metal, plastic, wood, or pressed wood and shall be kept in good repair. It may not be ~~illuminated~~illuminated, or constructed of, painted, or treated with reflective material, and shall not contain *flags*, streamers, moveable items or like devices.

(2) In the H30A, H30B, H30C, and H40 zones, the maximum *area* of the ~~sign~~Sign *face* shall be 18 inches by 24 inches. A maximum of two riders shall be permitted to attach above or below the main *sign* panel not to exceed six inches by 24 inches per rider for in-ground *signs*. The maximum

height of the top of any element of the *sign* shall be six feet from *grade*, except where the *sign* is freestanding, in which case the maximum height shall be four feet from *grade*. A ~~freestanding~~*Freestanding* *sign* must be located at least five feet from any property line. Where a *sign* is extended from an arm of support, such arm shall not exceed 16 inches.

(3) In the SD-B40 and H120 *districts*, the maximum *area* of the ~~sign~~*Sign* *face* shall be 16 square feet. The maximum height of the top of any element of the *sign* height shall be eight feet from *grade*. A ~~freestanding~~*Freestanding* *sign* must be located at least ten feet from any property line.

(4) Any such *sign* in any *district* shall be located outside of any sight visibility triangle. No portion of the *sign* shall extend across the property line.

(5) Such *sign* shall be removed immediately if the *building* permit for the project expires and construction has not commenced, and/or the permit is not renewed, and in all cases, no later than 72 hours after approval of the final inspection.

(h) Temporary window sign.

(1) Temporary *window signs* of any nature may be attached to glass window or doors, or mounted within 12 inches of a glass window or door.

(2) One ~~temporary~~*Temporary* *sign* shall be permitted per window.

(3) *Sign* may not be displayed more than 60 calendar days.

(4) The total *area* for ~~temporary~~*Temporary* *signs* shall not exceed 20 percent of the glass window they are facing unless otherwise provided in this subsection.

(5) *Signs* not in excess of six square inches may be attached to items displayed in display windows.

(i) Temporary banner sign.

(1) One professionally lettered temporary banner per *building frontage* or window in SD-B40 *district* is permitted.

(2) No *banner* shall exceed 32 square feet or five percent of the *building* façade that faces a public *street*, whichever is less.

(3) No *banner* shall be displayed for more than 30 consecutive calendar days within a six-month period.

(4) *Banner* shall not include *changeable copy*.

(5) *Banner* shall be made of durable materials such as canvas or vinyl. Non-durable material such as butcher-type paper is not permitted.

(6) *Banner* shall be securely attached to a supporting *structure* such as a ~~street~~ *frontage wall* and capable of withstanding continuous wind without deflections or rotations that would cause deformation or damage.

(7) No banner shall be attached to a roof *structure* or above the eave line of the *building*.

[Ord. No. 1624, § 2, 8-12-14; Ord. No. 18-1675 , § 3, 2-13-18]

Sec. 90-~~213~~-215. Prohibited signs.

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 erected, constructed, or affixed in the ~~town~~ Town except as otherwise permitted by Code:

- (a) *Awning signs* or any *sign* printed on or attached to an *awning* or *canopy*.
- (b) *Balloon signs* or other inflatable *signs*. Balloons may be permitted for a period not to exceed 24 hours for a temporary, non-commercial event such as a special occasion at a residence.
- (c) *Banner signs* except as otherwise permitted by Code.
- (d) *Billboards*.
- (e) *Cabinet signs*.
- (f) *Changeable copy signs* or ~~marquees~~ Marquees.
- (g) *Home business signs*.
- (h) *Flags* except as otherwise permitted by Code.
- (i) Lighted *signs* including strings of lights or lights framing a window
- (j) Mirror devices used as part of a *sign*.

- (k) *Off-premise signs* including *persons* wearing costumes and/or holding ~~temporary~~ Temporary signs with commercial copy.
- (l) *Pole-mounted signs.*
- (m) *Portable signs* including A-frame, sandwich board, and moveable make-shift signs such as signs attached to a mannequin or mounted on a table or chair, or any other similar type of ~~portable~~ Portable sign or moveable object primarily designed for display purposes or to attract the attention of sidewalk traffic.
- (n) *Roof signs.*
- (o) Signs whose face is designed or constructed to be placed or transported on wheels.
- (p) Snipe or bandit signs except political signs and ~~real~~ Real estate signs.
- (q) *Temporary signs* including posters and handbills except as otherwise permitted by Code.
- (r) *Umbrella signs.*
- (s) Signs containing wording which constitutes fraudulent or misleading advertising.
- (t) Signs containing obscene matter or wording which violates any federal, state or county statute, ordinance or rule.
- (u) Signs which have spinning devices, or strings of spinning devices, streamers, fluttering or other similar advertising devices.
- (v) Signs which emit smoke, visible vapors, particles, sound, or odors.
- (w) Signs not erected by a public authority which simulate, copy, or imply any official traffic sign, signal or police caution device.
- (x) Signs that display lights which are intermittent, blinking, moving, revolving, flashing or similar, except decorative or flashing illumination may be used between December 10 and January 5.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-~~214.~~-216. Prohibited sign locations.

Except as otherwise permitted by Code no temporary, permanent, or exempt sign shall be permissible in the following locations:

(a) *Signs* which prevent free ingress or egress from any door, window, or fire escape shall be prohibited.

(b) *Signs* shall not be placed in any location which obstructs a motorist's vision of an intersection, traffic control signal, other vehicular traffic, or view of pedestrian or bicycle traffic.

(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 except as otherwise permitted by Code. 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 accordance with section 90-~~211~~213(a) and section 90-~~211~~213. Such *signs* shall be limited to a maximum *area* of 25 square feet. These *signs* shall not be included in computing total *sign area* for a given operating enterprise.

(d) 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~~Town except as otherwise permitted by Code.

(e) Except as otherwise authorized by the ~~town-manager~~Town Manager or designee, no *sign* of any type shall be suspended across any public *street*, right-of-way, sidewalk, easement, *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*, right-of-way, easement, *alley*, waterway or other public property within the ~~town~~Town.

(f) *Signs* placed without the express permission of the property *owner* or agent.

[Ord. No. 1624, § 2, 8-12-14)]

Sec. 90-~~215~~-217. Non-conforming signs.

(a) Sign amortization. All legally permitted *signs* which become non-conforming by the provisions of this Code shall be replaced with a ~~conforming~~Conforming *sign* within three years of the effective date of the ordinance from which this article derives.

(b) ~~Non-conforming~~Conforming *signs* shall be immediately replaced if any of the following conditions exist during the amortization period.

- (1) There is additional development of a site.
- (2) There is a change in *use*, occupancy, or tenant.
- (3) There is a change in *sign copy* (with the exception of *window signs*).
- (4) There is a structural *sign* alteration or repair.
- (5) There is *sign* damage by any cause which exceeds 50 percent of the *sign* as determined by the ~~building official~~ Building Official.
- (6) There is removal of a *sign*.

(c) Sign relocation. ~~Non-conforming~~ Conforming signs shall not be permitted to be relocated.

[Ord. No. 1624, § 2, 8-12-14]

Sec. 90-~~216~~-218. Non-complying signs.

Signs not in compliance with the code or those installed without a permit shall be considered non-complying. Such *signs* shall be removed or replaced immediately or shall otherwise be subject to code enforcement action, forfeiture to the public, confiscation or removal by the ~~town~~ Town at the cost of the *owner*.

[Ord. No. 1624, § 2, 8-12-14]

Secs. 90-~~217~~219 - 90-~~225~~227. Reserved.

DIVISION 3. OFF-STREET PARKING

Sec. 90-226228. 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 H30A or H30B *district*: Two spaces.
- (2) *Single-family dwelling* in all other *districts*: Two spaces.
- (3) *Duplex dwelling*: One and a half 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:	2.75 spaces

One visitor parking space for each 5 *dwelling units* shall also be provided.

- (5) *Hotel*: One space for each room.
- (6) *Suite-hotel* and suite-motel: One space for each room.
- (7) Church, synagogue, temple or other place of assembly: One space for every three *persons*, as calculated by said *building's* occupant load, as determined by the fire department and ~~building-official~~ Building Official.
- (8) Grocery, fresh fruit or meat market: One space for each 250 square feet of gross *floor area*.

(9) Retail store or personal service establishment: One space for each 300 square feet of gross *floor area*.

(10) 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*.

(11) *Restaurants* or other establishments for the consumption of food and beverages on the premises: One space per four seats.

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

(13) 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. 90-227229. 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 *dwelling*s or sleeping units, seating capacity or otherwise, ~~—said *building* or *use*~~ shall comply with the all of the parking requirements herein.

(Code 1960, § 18-54)

Sec. 90-228230. Restricted and prohibited parking.

(a) *Off-street parking spaces* in H30A, H30B, and H30C *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~~194 and 90-~~193~~195. 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 H30C, H40, and H120 *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~~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 any *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~~231. Joint use and off-site facilities prohibited.

All parking spaces required herein shall be located on the same *lot* with the *building* or *use* served.

[Code 1960, § 18-56]

Sec. 90-~~230~~232. Design standards for off-street parking.

(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 18 feet, exclusive of driveways, for the temporary storage of one 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.
- -There shall be no tandem parking allowed.
- 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.

(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 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.

(c) Separation from walkways and streets.

- 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 foot planted strip.

- 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.

(d) Entrances and exits. Location and design of entrances and exits shall be in accord with the requirements of the ~~town-manager~~[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~~[191](#), 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) 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 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 the *landscape* requirements of this Code.

(i) Vehicular queuing. Offsite vehicular queuing shall not be permitted. Vehicular queuing, sufficient to accommodate surge traffic for arrival and departure of reasonably expected crowd sizes for the *uses* on a property, shall be required and accommodated on private property only. Adequacy of design for vehicular queuing shall be demonstrated by a traffic study subject to review and approval by Town staff. The ~~town-manager~~[Town Manager](#) or his designee reserves the right to increase vehicular queuing requirements if deemed necessary based on individual circumstances and so as to cause the least practical interference with the *use* of adjacent property and with the movement of pedestrian or vehicular traffic.

- (j) Access to state roadways. Projects that have direct or immediate access or is within one-half block of Collins Avenue, Harding Avenue or 96th Street shall be subject to the review and approval by FDOT for compliance with FDOT standards. *Site plan* applications subject to this provision shall include a letter from FDOT as part of the *site plan* submittal.
- (k) On-site circulation. There shall be safe, adequate, logical and convenient arrangement of pedestrian walkways, bikeways, roadways, driveways, driving aisles and off street parking and *loading spaces* on-site. The ~~town manager~~ Town Manager or his designee reserves the right to modify on-site circulation if deemed necessary based on individual circumstances and so as to cause the least practical interference with the use of adjacent property and with the movement of pedestrian or vehicular traffic.
- (l) ~~Compact and handicapped spaces.~~ Parking stall dimensions and Parking for the disabled. Parking stall and aisle dimensions shall conform to the Zoning Code of Miami-Dade County entitled "Minimum Parking Stall Dimensions," except as may otherwise be provided in this Code. Handicapped spaces shall be clearly designated for "Handicapped Only." 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~~233. Retention of ~~Offstreet~~Off-street Parking Trust Fund.

The Town of Surfside Parking Trust Fund established pursuant to Ordinance No. ____ and codified as Section 90-~~77~~78(6) of the previous zoning ordinance is hereby retained to maintain funds currently within the trust fund and accept parking trust fee payments due to the trust fund in connection with approvals issued prior to the effective date of this ordinance. No development approved after the effective date of this ordinance may satisfy any parking requirement through payment into the trust fund.

Parking fees collected pursuant to approvals granted prior to the effective date of this ordinance shall be deposited into the parking trust fund. The fund shall be used to facilitate the provision of public *off-street parking* and infrastructure improvements related to parking including, but not limited to, the following activities:

- a. ~~a.~~ Acquire fee simple or other interests in land, and other real property for parking purposes;
- b. ~~b.~~ Construct, maintain, operate, lease, manage, purchase, or otherwise provide *off-street parking* facilities for public use including all labor and materials, cost of interest and financing, and all other such reasonable costs;
- c. ~~c.~~ Provide public information to enhance parking utilization including publicity campaigns, graphics and *signage*, and other informational devices;
- d. ~~d.~~ Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity, with aim of reducing traffic congestion and gridlock;
- e. ~~e.~~ Provide accessibility to *off-street parking* facilities by suitable means such as public shuttle, tram or trolley service ~~and~~, and sustainable mobility solutions, including electrical vehicles and related infrastructure, together with related physical improvements such as bus shelters and right-of-way modifications; and
- f. ~~f.~~ Perform such other related activities as may be necessary to carry out the intent of this subsection.

The success and financial feasibility of providing any such shuttle, tram, bus, or trolley service, or any micro-mobility solutions, as provided herein, shall be subject to annual evaluation by the ~~town commission~~ Town Commission. Funds deposited in the parking trust fund shall be made available to the ~~town commission~~ Town Commission for the purposes set forth in this subsection, after review and recommendation by the ~~town manager~~ Town Manager to the ~~town commission~~ Town Commission and approval by the ~~town commission~~ Town Commission.

Secs. 90-~~232~~234 - 90-~~240~~242. Reserved.

DIVISION 4.OFF-STREET LOADING

Sec. 90-~~241~~243. 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.

Column 1	Column 2	Column 3
Use or Use Category	Floor area as Defined in Definitions, in Square Feet	Loading Required in All Districts Spaces <u>spaces</u>
Business, commercial	10,000-60,000 <u>60,001 and over</u>	One <u>Two</u>
Office building	<u>10,000</u> -60,000 <u>60,001</u> and over	<u>One</u> Two
<u>Multiple-family building</u>	20,000—100,000 <u>100,001-200,000</u> <u>200,001 and over</u>	One <u>Two</u> <u>Three</u>
Hotel or motel	100 <u>10,000 - 60,000</u> <u>60,001</u> and over	<u>One</u> Two

(Code 1960, § 18-58)

Sec. 90-~~242~~-.244. 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~~245. Design standards for off-street loading.

- (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~~ Town Manager.

[Code 1960, § 18-60]

Secs. 90-~~244~~246 — 90-~~249~~251. Reserved.

Division 5. LANDSCAPE REQUIREMENTS

Sec 90-~~250~~-252. General.

1. ~~90-250.1~~ Purpose and intent. The general purposes of this section are as follows:

(~~1~~)a. 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~~)b. To create and enhance the aesthetic subtropical character and identity distinctiveness of the Town of Surfside;-

(~~3~~)c. 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~~)d. To prevent the expansion of the listed pest plant species by prohibiting the use of noxious exotic plants which invade native plant communities;-

(~~5~~)e. To promote the *use* of more wind tolerant *trees* and proper horticultural planting methods in order to maintain a more sustainable *landscape*;

(~~6~~)f. To promote Florida Friendly principles through the *use* of drought-tolerant *landscape* species, grouping of plant material by water

requirements, right plant in the right place, appropriate *fertilization*, the *use* of *irrigation* systems that conserve the *use* of potable and non-potable water supplies, mulching and restrictions on the amount of lawn *areas*;-

(7)g. 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)h. 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)i. 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* and where applicable, encourage appropriate wildlife habitat *areas*;-

(10)j. 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)k. 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)l. To improve the aesthetic appearance of the *Town* through the *use* of plant material, thereby protecting and increasing property values within the community;-

(13)m. 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)n. To provide the physical benefits of using plant material as a function and integral part of the *Town* of Surfside's development;-

(15)o. To provide minimum standards for *landscaping* new developments or for *redevelopment*;-

~~(16)~~p. ____ To promote water conservation and *vegetation* protection objectives by providing for:-

~~(a)~~q. ____ The preservation of existing plant communities pursuant to the requirements of the Miami-Dade's *Tree Preservation and Protection Ordinance*;-

~~(b)~~r. ____ The reestablishment of native plant communities;-

~~(c)~~s. ____ The *use of site-specific plant materials*; and-

~~(d)~~t. ____ The implementation of Florida Friendly principles as identified in Florida-Friendly *Landscaping-Guide to Plant Selection & Landscape Design* as amended, and as provided by law.

2. ~~90-250.2~~ Definitions.

(1) *Accessway* means private vehicular roadway intersecting a public right-of-way.

(2) *Applicant* means the *owner* or the authorized agent of the subject property.

(3) *Application* or *apply* means the actual physical deposition of *fertilizer* to *turf* or *landscape* plants.

(4) *Applicator* means any *person* who applies *fertilizer* on *turf* and/or *landscape* plants.

(5) *Approved test* means a soil test from the University of Florida, government, or other commercial licensed laboratory that regularly performs soil testing and recommendations.

(6) *Automatic controller* means a mechanical or electronic device, capable of automated operation of valve stations to set the time, duration and frequency of a water *application*.

(7) *Berm* means a linear earthen mound measured from the crown of the road or abutting finish floor elevation and has a maximum slope of three to one. The *berm* shall consist of clean fill composed of *planting soil*.

(8) *Best management practices (BMP's)* means *turf* and *landscape* practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practical *site-specific* means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

(9) *Buffer, perimeter landscape* means 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.

(10) *Canopy* means the upper portion of a *tree* consisting of limbs, branches and leaves.

(11) *Clear trunk* means 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.

(12) *Clear wood ("gray wood")* means 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.

(13) *Code enforcement officer, official, or inspector* means any designated employee or agent of the *Town* of Surfside whose duty is to enforce codes and ordinances enacted by the *Town*.

(14) *Commercial applicator* except as provided in F.S. § 482.1562(9), means any *person* who applies *fertilizer* for payment or other consideration to property not owned by the *person* or firm *applying* the *fertilizer* or the employer of the *applicators*.

(15) *CPTED* means 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.

(16) *Diameter breast height (DBH)* means the diameter of the *tree* trunk(s) measured at 4½ feet above grade.

(17) *Disturbed land/ground* means any land where the original natural *vegetation* has been removed, displaced, overtaken or raked.

(18) *Emitter* primarily refers to devices used in *micro irrigation* systems.

(19) *Fertilizing* or *fertilization* means the act of *applying fertilizer* to *turf*, specialized *turf* or *landscape* plants.

(20) *Fertilizer* means any substance or mixture of substances that contains one or more recognized plant nutrients and which promotes plant growth, controls soil acidity or alkalinity, provides other soil enrichment, or provides other corrective measures to the soil.

(21) *Florida-friendly landscape* means the principles of Florida-friendly *landscaping* promulgated by the University of Florida which include planting ~~native~~ the right plant species (whether native or non-native) in the right place, efficient watering, appropriate *fertilization*, *mulching*, attraction of wildlife, responsible management of *yard* pests, recycling *yard* waste, reduction of stormwater *runoff*, and waterfront protections. Additional components of *Florida-friendly landscape* include planning and design, soil analysis, the *uses* of solid waste compost, practical *use* of *turf*, and proper maintenance. As of the writing of this Code, further information on Florida Friendly landscaping is available at <https://ffl.ifas.ufl.edu>

(22) *Functional landscaping* means 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*.

(23) *Groundcover* means 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 feet in height.

(24) *Guaranteed analysis* means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a *fertilizer*.

(25) *Hedge* means a dense row of evenly spaced *shrubs* planted to form a continuous, unbroken visual screen.

(26) *Hydrozone* means a distinct grouping of plants with similar water needs and climatic requirements.

(27) *Impervious area* means an *area* covered by a material which does not permit infiltration or percolation of water directly into the ground.

(28) *Infiltration rate* means the rate of water entry into the soil expressed as a depth of water per unit of time (inches per hour).

(29) *Irrigated landscape area* means all outdoor areas that require a permanent *irrigation* system.

(30) *Irrigation zone* means a grouping of sprinkler heads, soakers, bubblers, or *micro irrigation* emitters operated simultaneously by the control of one valve.

(31) *Institutional applicator* means any *person*, other than a private *person* applying fertilizer on their own residential property or a commercial *applicator* (unless such definitions also *apply* under the circumstances), that applies fertilizer for the purpose of maintaining *turf* and/or *landscape* plants. *Institutional applicators* shall include, but shall not be limited to, *owners*, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or *business sites*, and any residential properties maintained in condominium and/or common *ownership*.

(32) *Irrigation* means the method of supplying plant materials with water other than by natural rainfall.

(33) *Landscape/landscaping* means:

(1)a. 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)b. When used as a verb, this term shall mean the process of installing or planting materials commonly used in *landscaping* or environmental design.

(34) *Mulch* means 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.

(35) *Multi-trunk trees* means 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. ;b1; NOTE: The *Town* can require either multi-trunk or single trunk on certain *trees*.

(36) *Microclimate* means the climate of a specific *area* in the *landscape* that has substantially differing sun exposure, temperature, or wind, than surrounding *areas* or the *area* as a whole.

(37) *Micro irrigation (low volume)* means the *application* of small quantities of water directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). *Micro irrigation* encompasses a number of methods or concepts including drip, subsurface, bubbler, and spray *irrigation*, previously referred to as trickle *irrigation*, *low volume*, or low flow *irrigation* that deliver water directly to plant root zones with a high degree of efficiency, no *runoff*, and little to no evaporation.

(38) *Moisture sensing device* or *soil moisture sensor* means a device to indicate soil moisture in the root zone for the purpose of controlling an *irrigation* system based on the actual needs of the plant.

(39) *Native habitat* means 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.

(40) *Native plant community* means a natural association of plants dominated by one or more prominent *native plant species*, or a characteristic physical attribute as indicated by the *Town* of Surfside.

(41) *Native plant species* means *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.

(42) *Open space* means all *pervious areas* of the *site*.

(43) *Overall height* means ~~The~~*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.

(44) *Pervious areas* means any portion of the ground unobstructed by a non *landscape* planting surface or *synthetic turf* which prevents or slows down the natural seepage of water into the ground.

(45) *Planting soil/topsoil* means a medium composed of 50 percent sand and 50 percent muck. *Palm planting soils* shall compose of no more than 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 6.5 and 7.-

(46) *Person* means any natural *person*, *business*, corporation, limited liability company, partnership, limited partnership, association, club, organization and/or any group of people acting as an organized entity.

(47) *Point of connection (POC)* means the location where an *irrigation* system is connected to a water supply.

(48) *Pop-up sprays* means spray heads that pop up with water pressure and provide a continuous spray pattern throughout a given arc of operation.-

(49) *Pressure tank* means a pressurized holding tank for *irrigation* water coming from wells to minimize cycling of the water pump.

(50) *Pump cycling* means *irrigation* pump coming on and shutting off frequently during operation of *irrigation* systems.

(51) *Prohibited application period* means the time period during which *application* of *fertilizer* is prohibited due to the potential of run-off to negatively impact the environment, including tropical storms and hurricane warnings, or for any portion of the *Town* where heavy rain has been forecasted.

(52) *Rain sensor device* means a low voltage electrical or mechanical component placed in the circuitry of an automatic *irrigation* system that is designed to turn off a sprinkler controller when precipitation has reached a pre-set quantity.

(53) *Runoff* means water that is not absorbed by the soil or *landscape* and flows from the *area*.

(54) *Redevelopment* means any proposed expansion, addition, or facade 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 75 percent or greater of the existing *structure* is knocked down.

(55) *Saturated soil* means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this article, soils shall be

considered saturated if standing water is present or the pressure of a *person* standing on the soil causes the release of free water.

(56) *Slow-release* means nitrogen in a form which delays its availability for vegetative uptake and *use after application*, or which extends its availability to the *vegetation* longer than a reference rapid or quick release product. It includes the terms “controlled release”, “timed release”, “slowly available”, and “water insoluble nitrogen.”

(57) *Shrub* means 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.

(58) *Soil moisture sensor*. See “*Moisture sensing device*”.

(59) *Soil texture* means the classification of soil based on the percentage of sand, silt, and clay in the soil.-

(60) *Site-specific plant materials* means the *use* of plant species selected to minimize supplemental *irrigation*, *fertilization* and pest control.

(61) *Synthetic turf* means a dense and continuous surface of synthetic fibers mounted on a permeable backing and of sufficient *density* and green color to replicate the appearance of healthy, natural grass.

(62) *Town* means the department or division of the *Town* of Surfside government that the *Town manager*~~Manager~~ has designated to enforce the *landscaping* requirements of this section.

(63) *Tree* means 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)a. *Tree, Dicotyledonous*~~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)b. *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 often feet at maturity.

c. *Tree abuse* means:

~~(4)~~1. Hat racking, flat-cutting the top of a *tree*, severing leader or leaders of a *tree*.

~~(2)~~2. Pruning that reduces the total height or spread of a *tree canopy* by more than 30 percent in one year.

~~(3)~~3. Cutting upon a *tree* which destroys its natural habit of growth.

~~(4)~~4. Pruning that leaves stubs or results in a flush cut or splitting of limb ends.

~~(5)~~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 of the length of the line falls on portions of the *tree* where the bark remains.

~~(6)~~6. The use of climbing spikes, nails or hooks with the exception for the purposed of total *tree* removal.

~~(7)~~7. Pruning that does not conform to the standards set by the American National Standards Institute (ANSI A300), as amended, with the exception of palm pruning which shall allow no pruning of fronds above the horizontal plane.

~~(8)~~8. Using nails or other piercing devices for the purpose of attaching *signage* or any objects to a *tree*.

~~(9)~~9. Girdling of *trees* by guying, staking, support, string trimmers, or non-removal of planting materials from the root balls.

~~(10)~~10. Lawn mower string trimmer or deck damage inflicted on any portion of a *tree*.

~~(11)~~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)~~12. Structures being placed or constructed within a *tree*.

~~(13)~~13. Utilizing any portion of a *tree* as a *fence* or similar structural support.

~~(14)~~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.

(64) *Turf* means a mat layer of living *monocotyledonous* grass plants such as, but not limited to, Bahia, Bermuda, Centipede, Seaside Paspalum, St Augustine, and Zoysia and their cultivars. However, this definition does not include any type of synthetic/artificial *turf*.

(65) *Urban landscape* means *pervious areas* on residential, commercial, industrial, institutional, road rights-of-way or other nonagricultural lands that are planted with *turf* or *landscape* plants.

(66) *Vegetation* means angiosperms, gymnosperms, ferns and mosses.

(67) *Vehicular encroachment* means any protrusion of a motor vehicle outside of the boundaries of a *vehicular use area* into a *landscape area*.

(68) *Vehicular use area (VUA)* means 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.

(69) *Vine* means ~~Any~~any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 2, 1-14-20]

Sec. 90-251.-253. Landscape permit plans.

(1) ~~90-251.1~~ 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.

(2) ~~90-251.2~~ All *landscape* plans shall meet the following requirements:

~~(1)~~(a) ____ Shall be of the same scale as the *site plan*, but no smaller than one inch equals 50 feet. Recommended scale to be one inch equals 20 feet.

~~(2)~~(b) ____ 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)~~(c) ____ Location and outline of existing *buildings* and *site* improvements to remain.

~~(4)~~(d) ____ Location, condition, names, sizes, *DBH*, and disposition of existing *trees*, *hedge*, and *site* improvements along any abutting properties within 25 feet of the property lines.

~~(5)~~(e) ____ 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)~~(f) ____ 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)~~(g) ____ 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)~~(h) ____ Location and labeling of existing and proposed *site* lighting. Additionally, provide a minimum of 15 feet separation from the required or existing shade *trees* and 7½ feet from palms and small *trees*.

~~(9)~~(i) ____ Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required 7½ feet clearance from all *landscape* material to the front and sides with four feet clearance from the rear.

~~(10)~~(j) ____ Location of existing and proposed easements, right of ways, drainage *structures*, overhead utility wires, underground utilities, above ground electrical elements, and transformers.

~~(11)~~(k) Location and details including type, height, color, and additional embellishments of *walls, fences, gates, and signs*.

~~(12)~~(l) All planting details and staking details, including but not limited to planting/staking specifications, general notes and *tree* protection barricade detail.

~~(13)~~(m) Existing or proposed water bodies and retention *areas* indicating the required four to one slopes.

~~(14)~~(n) Such other information that may be required to give a complete understanding of the proposed plan.

(3) ~~90-251.3~~ The *irrigation* plan shall meet the following requirements:

~~(1)~~(a) The same scale of the *site plan*, but no smaller than one inch equals 50 feet.

~~(2)~~(b) Location of existing *trees, vegetation* and native plant communities to remain, if applicable.

~~(3)~~(c) Location of existing *buildings, paving, and site* improvements to remain.

~~(4)~~(d) Location of proposed *buildings, paving, site* improvements, and water bodies.

~~(5)~~(e) Main location with sleeves, size and specifications.

~~(6)~~(f) Valve location, size and specifications.

~~(7)~~(g) Pump location, size and specifications or water source.

~~(8)~~(h) Backflow prevention device type and specifications.

~~(9)~~(i) Controller locations and specifications.

~~(10)~~(j) Zone layout plan (minimum scale 1" = 20"):

~~(11)~~(k) Provide 100 percent coverage and 100 percent overlap.

~~(12)~~(l) Indicating head-type, specifications and spacing.

~~(13)~~(m) Indicate location and details of rain sensor, second water meter, and rainwater citrons; and

~~(14)~~(n) Indicating methods used to achieve compliance with Florida Friendly principles as required by F.S. § 373.228.

~~(15)~~(o) Efficient *Irrigation* Design. All new *irrigation* installations shall meet the *irrigation* standards identified per F.S. § 373.228. These include:

~~(a)~~(1) *Irrigation* systems, including the use of *micro irrigation* as appropriate, shall be designed to meet the needs of the plants in the *landscape*.

~~(b)~~(2) When feasible, *irrigation* systems shall be designed to separately serve *turf* and non-*turf areas*.

~~(c)~~(3) The *irrigation* system plans, and specifications shall identify the material to be used and the construction methods.

~~(d)~~(4) The design shall consider soil, slope and other *site* characteristics in order to minimize water waste, including overspray, the watering of all impervious surfaces and other non-vegetated *areas*, and off-*site runoff*.

~~(e)~~(5) The system shall be designed to minimize free flow conditions in case of damage or other mechanical failure.

~~(f)~~(6) The system shall be designed to use the lowest quality water feasible.

~~(g)~~(7) Rain switches or other approved devices, such as *soil moisture sensors* to prevent unnecessary *irrigation*, shall be incorporated. (F.S. § 373.62)

~~(h)~~(8) A recommended seasonal operating schedule and average precipitation rate for each *irrigation zone* for both establishment and maintenance conditions shall be provided.

~~(h)~~(9) Control systems shall provide the following minimum capabilities:

- i. Ability to be programmed in minutes, by day of week, season, time of day,
- ii. Ability to accommodate multiple start times and programs,
- iii. Automatic shut off after adequate rainfall,
- iv. Ability to maintain time during power outages for a minimum of three (3) days, and
- v. Operational flexibility to meet applicable year-round water conservation requirements and temporary water shortage restrictions.

~~(h)~~(10) Recommended maintenance activities and schedules shall be included.

~~(h)~~(11) Precipitation rates for sprinklers and all other emitters in the same zone shall be matched, except that *micro irrigation* emitters may be specified to meet the requirements of individual plants.

~~(h)~~(12) *Irrigation* systems shall be designed to maximize uniformity, considering factors such as:

- i. Emitter types.
- ii. Head spacing.
- iii. Sprinkler pattern.
- iv. Water pressure at the emitter.

~~(m)~~(13) *Irrigation* systems with main lines larger than two (2) inches or designed to supply more than seventy (70) gallons per minute shall incorporate a means to measure *irrigation water use*, at a minimum of ninety-five (95) percent accuracy across the flow range.

~~(n)~~(14) *Irrigation* system plans and specifications shall require the system installer to conduct final testing and adjustments to achieve design specifications prior to completion of the system and acceptance by the owner or owner's representative.

~~(e)~~(15) The *irrigation* system shall be designed to correlate to the organization plants into zones for efficiency. The water *use* zones shall be shown in the *irrigation* plan. All plants (including *turf*) require watering during establishment. Temporary facilities may be installed to facilitate establishment.

~~(p)~~(16) Rain shut-off switch equipment shall be required on automatic *irrigation* systems to avoid *irrigation* during periods of sufficient soil moisture, in accordance with Florida Law (F.S. § 373.62). Said equipment shall consist of an automatic mechanical or electronic sensing device or switch that will override the *irrigation* cycle of the sprinkler system when adequate rainfall has occurred.

~~(q)~~(17) The installation of tracer wire along main lines and laterals shall be required to permit easy location and prevent inadvertent cutting of pipes.

~~(r)~~(18) If the water supply for the *irrigation* system is from a well, a constant pressure flow control device or *pressure tank* with adequate capacity shall be required to minimum pump "cycling".

~~(s)~~(19) Check valves must be installed at *irrigation* heads as needed to prevent low head drainage and puddling.

~~(t)~~(20) Nozzle precipitation rates for all heads within each valve circuit must be matched to within twenty (20) percent of one another.

~~(u)~~(21) A pressure-regulating valve shall be installed and maintained if static service pressure exceeds eighty (80) pounds per square inch. The pressure regulating valve shall be located between the meter and the first point of division in the pipe and set at a not more than fifty (50) pounds per square inch when measured at the most elevated fixture in the *structure* served. This requirement may be waived if satisfactory evidence is provided that high pressure is necessary in the design and that no water will be wasted as a result of high-pressure operation.

~~(v)~~(22) To assist the end user to operate the system property, in addition to the minimum requirements of [Section] 373.228, F.S., the following are

encouraged to be provided to the *owner* at the time of installation. The map shall be attached inside each *irrigation* controller or be kept in another readily available location if it is not practical to insert into a small container.

- i. *Irrigation* schedule information, with instructions for seasonal timer and sensor changes;
- ii. *Irrigation* system plans and specifications including as-constructed drawings, recommended maintenance activities and schedules;
- iii. Operations schedules, design precipitation rates, and instructions on adjusting the systems to *apply* less water after the *landscape* is established;
- iv. Maintenance schedule, water source, water shut-off method, and the manufacturing operational guide for their *irrigation* controller;
- v. To the extent feasible, similar information should be made available for subsequent property transfers.

~~(w)~~(23) Reduced-pressure-principle backflow preventers shall be recertified yearly.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19)]

Sec. 90-~~252~~-254. 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 12 inches or two times the root ball of *planting soil* around root ball. A minimum of three inches of shredded, approved arsenic free, organic *mulch* or *groundcover* shall be installed around each *tree* planting for a minimum of 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 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 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 12 inches and backfilled with specified planting mix. No *mulch* shall be permitted in adjacent swales or right-of-way.

(4) Reserved.

(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) Reserved.

(9) All proposed *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 are 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 *duplex* only) shall be provided with an automatically operating, underground, and rust free *irrigation* system designed to have 100 percent coverage with 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~~Impervious areas. All PVC risers shall be painted flat black.

(a) Pursuant to F.S. § 373.62, 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.

~~(15)~~ Synthetic turf.

~~(a)~~ Synthetic turf may be permitted on all properties subject to the requirements and procedures set forth in this section.

~~(b)~~ (15) Synthetic turf shall is not be counted towards the minimum required permitted as landscaped open space or pervious area, but may be permitted as a material for Impervious areas, buffers, foundation plantings or landscape islands.

~~(c)~~ (a) Synthetic turf shall comply with all of the following design standards and shall:

- i. Simulate the appearance of live *turf*, organic *turf*, grass, sod or lawn, and shall have a minimum eight-year “no fade” warranty.
- ii. Be of a type known as cut pile infill with pile fibers of a minimum height of 1.75 inches and a maximum height of 2.5 inches.
- iii. Have a minimum face weight of 75 ounces per square *yard*.
- iv. Be manufactured from polyethylene monofilament, dual yarn system, and manufactured in the United States.
- v. Have backing that is permeable.
- vi. Be lead free and flame retardant.

~~(d)~~ (b) Synthetic turf shall comply with all of the following installation standards and shall:

- i. Be installed by a state-licensed general contractor in a manner prescribed by the manufacturer.

ii. Be installed over a subgrade prepared to provide positive drainage and an evenly *graded*, porous crushed rock aggregate material that is a minimum of three inches in depth.

iii. Be anchored at all edges and seams consistent with the manufacturer's specifications.

iv. Not have visible seams between multiple panels.

v. Have seams that are joined in a tight and secure manner.

vi. Have an infill medium consisting of clean silica sand or other mixture, pursuant to the manufacturer's specifications that shall:

1. Be brushed into the fibers to ensure that the fibers remain in an upright position;
2. Provide ballast that will help hold the *turf* in place; and
3. Provide a cushioning effect.

~~(e)~~(c) *Synthetic turf* shall comply with all of the following additional standards:

i. *Areas* of living plant material shall be installed and/or maintained in conjunction with the installation of *synthetic turf*. Living plant material shall be provided per the minimum code requirements.

ii. *Synthetic turf* shall be separated from planter *areas* and *tree* wells by a concrete mow strip, bender board or other barrier with a minimum four-inch thickness to prevent the intrusion of living plant material into the *synthetic turf*.

iii. *Irrigation* systems proximate to the *synthetic turf* shall be directed so that no *irrigation* affects the *synthetic turf*.

~~(f)~~(d) *Synthetic turf* shall comply with all of the following maintenance standards ~~and shall~~:

i. Be maintained in an attractive and clean condition, and shall not contain holes, tears, stains, discoloration, seam separations, uplifted surfaces or edges, heat degradation or excessive wear.

- ii. Be maintained in a green fadeless condition and free of weeds, debris, and impressions.

~~(g)~~(e) The following uses are prohibited:

- i. *Synthetic turf* in the public rights-of-way or swales.
- ii. *Synthetic turf* shall not be used as a screening material where screening is required by the Code.

~~(h)~~(f) ~~All uses of Any property owner with synthetic turf installed prior to the effective date of this ordinance may count such synthetic turf towards minimum landscape requirements and shall require a building permit. The building permit application shall include~~ demonstrate compliance with the requirements of this section to the satisfaction of the Town Planner and Building Official within 180 days of the effective date of this ordinance, after providing, at a minimum, all of the following information:

- i. A complete *landscape* plan showing the *area* of *synthetic turf*, *area* of living plant material, and *area* and method of separation between these *areas*. ~~Minimum landscape requirements shall be required.~~
- ii. Details regarding existing or proposed *irrigation* proximate to the *synthetic turf*.
- iii. Brand and type of *synthetic turf*, including all manufacturer specifications and warranties.
- iv. A scaled cross section and details of the proposed materials and installation, including but not limited to subgrade, drainage, base or leveling layer, and infill.
- v. A survey of the property with a signed affidavit from the property owner that no changes have occurred since the date of the survey.

~~(i)~~(g) ~~Previously Phasing out of previously installed synthetic turf. Within one year of the effective date of the ordinance from which this section derived, all owners of property where~~ counted towards minimum landscape requirements. So long as *synthetic turf* ~~has previously been installed shall~~

~~submit proof satisfactory prior to the Town that the property effective date of this ordinance is maintained in compliance with this section. If the Town determines such proof of compliance satisfactory, the synthetic turf may continue to sub-section, it may remain on the property. Failure to provide satisfactory proof of for its usable life. Once at the end of its usable life or if it is determined by the Town that 25% or more of its surface area is not in compliance with this section within one year of the effective date of the ordinance from which this section derived shall constitute a violation of the Code and the property owner shall~~sub-section, the synthetic turf may not be ~~required to immediately remove the~~repaired or replaced with new synthetic turf, and shall be removed and replaced with living plant material or other approved covering permitted under this landscape code.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11; Ord. No. 18-1680 , § 3, 4-10-18; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 3, 1-14-20]

Sec. 90-~~253~~-255. 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.

(2) Florida Friendly *Fertilizer Use* To regulate the proper use of *fertilizers* by any person who applies *fertilizer* on *turf* and/or *landscape* or plants; requires proper training of commercial and institutional *fertilizer applicators*; establishes training and licensing requirements; establishes a *prohibited application period*; specifies allowable *application fertilizer application* rates and methods, *fertilizer-free* and low maintenance zones, and exceptions. It requires the use of *Best Management Practices*~~management practices~~ for the *application* of *fertilizer* to minimize negative environmental effects associated with excessive nutrients in water bodies. These environmental effects have been observed in Dade County's natural and constructed stormwater conveyances, canals, lakes, estuaries and other water bodies. Collectively, these water bodies are an important asset to the environmental, recreational, cultural and economic well-being of *Town* of Surfside residents and their public health. Overgrowth of algae and *vegetation* hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. *Regulation* of nutrients, including both phosphorus and nitrogen contained in *fertilizer*, is anticipated to help improve and maintain water and habitat quality.

(a) Timing of fertilizer applications.

- i. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to *turf* and/or *landscape* plants during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of *Town of Surfside*, issued by the National Weather Service.
- ii. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to *turf* and/or *landscape* plants if heavy rain two inches or more within a 24-hour period is likely.
- iii. No *applicator* shall *apply fertilizers* containing nitrogen and/or phosphorus to saturated soils.
- iv. *Fertilizer* containing nitrogen and/or phosphorus shall not be applied before seeding or sodding a site and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the stormwater pollution prevent plan for the site.
- v. *Fertilizer free zones.* *Fertilizer* shall not be applied within ten feet of any water body or canal as defined by the Florida Department of Environmental Protection in Chapter 62-340, Florida Administrative Code, or from the top of a seawall or lake bulkhead. Newly planted *turf* or *landscape* plants may be fertilized in this zone only for a 60-day period beginning no sooner than 30 days after planting if needed to allow the *vegetation* to become well established. Caution shall be used to prevent direct deposition of *fertilizer* into the water.

(b) Fertilizer content and application rates.

- i. *Fertilizers* applied to *turf* shall be applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban *Turf Fertilizers*. Under Rule 5E-1.003(2), Florida Administrative Code, required *application* rate and frequency maximums, which vary by plant and *turf* types, are found on the labeled *fertilizer* bag or container.
- ii. Nitrogen or phosphorus *fertilizer* shall not be applied to *turf* or *landscape* plants except as provided in subsection (1) above for *turf*, or in UF/IFAS recommendations for *landscape* plants, vegetable gardens,

and fruit *trees* and *shrubs*, unless a soil or tissue deficiency has been verified by an *approved test*.

iii. *Fertilizer* used for sports *turf* at golf courses shall be applied in accordance with the recommendations in “~~Best Management Practices~~*management practices*” for the Enhancement of Environmental Quality on Florida Golf Courses,” published by the Florida Department of Environmental Protection, dated January 2007, as may be amended. *Fertilizer* used at park or athletic fields shall be applied in accordance with Rule 5E-1.003(2), Florida Administrative Code.

(c) *Fertilizer application practices.*

i. Spreader deflector shields shall be used when *fertilizing* via rotary (broadcast) spreaders. Deflectors must be positioned such that *fertilizer* granules are deflected away from all impervious surfaces, *fertilizer*-free zones and water bodies, including wetlands. Any *fertilizer* applied, spilled or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

ii. *Fertilizer* released on an impervious surface must be immediately contained and either legally applied to *turf* or any other legal site or returned to the original or other appropriate container.

iii. In no case shall *fertilizer* be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

iv. Property *owners* and managers are encouraged to use an Integrated Pest Management (IPM) strategy as currently recommended by the University of Florida Cooperative Extension Service publications.

(d) *Training.*

i. All commercial and *institutional applicators* of *fertilizer* shall abide by and successfully complete the six-hour training program in the “Florida-Friendly ~~Best Management Practices~~*management practices*” for Protection of Water Resources by the Green Industries” offered by the Florida Department of Environmental Protection through the University of Florida/Broward County Cooperative Extension Service “~~Florida-Friendly Landscapes~~*friendly landscapes*” program or an approved equivalent program. A trained *applicator* shall have identification or other

evidence of successful completion of the training program on their *person* at all times while *applying fertilizer*.

ii. Non-commercial and non-*institutional applicators* not otherwise required to be certified, such as private citizens on their own residential property, are encouraged to follow the recommendations of the University of Florida/IFAS “~~Florida-Friendly—Landscape~~*friendly landscape* Program” and label instructions when *applying fertilizers*.

(e) Licensing of commercial *applicators*.

i. All *businesses applying fertilizer to turf or landscape plants* (including, but not limited to, residential lawns, golf courses, commercial properties, *multi-family* and condominium properties) must ensure that the *business owner* or his/her designee and at least (1) employee holds the appropriate “Florida-Friendly Best ~~Management Practices~~*management practices* for Protection of Water Resources by the Green Industries” training certificate prior to the *business owner* obtaining a *Town business* tax receipt. Standard *business* tax receipt (BTR) and transaction fees shall *apply*. *Owners* for any category of occupation which may apply any *fertilizer to Turf and/or Landscape Plants* shall provide proof of completion of the program to the *Town of Surfside*. It is the responsibility of the *business owner* to maintain the “Florida-Friendly Best ~~Management Practices~~*management practices* for Protection of Water Resources by the Green Industries” certificate to receive their *business* tax receipt annually.

ii. After adoption of this ordinance, all commercial *applicators of fertilizer* within the *Town of Surfside*, shall have and carry in their possession at all times when *applying fertilizer*, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial *Fertilizer Applicator* per Rule 5E-14.117(18), Florida Administrative Code.

(3) Pesticide Management.

~~(a)~~i. All *landscape applications* of pesticides, including “Weed and Feed” products, for hire shall be made in accordance with State and Federal Law and with the most current version of the Florida-Friendly Best ~~Management Practices~~*management practices* for Protection of Water Resources by the Green Industries, as amended.

~~(b)~~ii. When using pesticides, all label instructions of State and Federal law shall be adhered to. The Florida Department of Agriculture and Consumer Services is responsible for enforcement of pesticide laws.

(4) Management of grass clippings and vegetative matter. In no case shall grass clippings, vegetative material, and/or vegetative debris intentionally be washed, swept or blown on to or into storm-water drains, ditches, conveyances, water bodies, wetlands, sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

(5) 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 inches above the ground. The *use* of *mulch* in swales or right-of-way is prohibited.

NOTE: If weeds, noxious grasses or underbrush are in excess of the eight inches; it too will need to be cut and the weeds, noxious grasses and underbrush removed and re-sodded if necessary.

(6) *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.

(7) Preserved and created native plant communities shall be maintained in a natural state without the use of mechanical equipment.

(8) 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.

(9) All *trees* shall be trimmed in accordance to Miami-Dade County *tree* preservation code. Any type of *tree abuse*/hatracking is prohibited with in the *Town*.

(10) 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.

(11) *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.

(12) Any plastic or similar artificial *landscape* materials shall be prohibited with the exception of seasonal holiday decorative displays of less than 60 days duration and *synthetic_turf* as provided for in this article. *Synthetic turf* shall be permitted with the exception that it shall not be counted towards the minimum *landscaped area*, buffers, foundation planting or *landscape* islands.

(13) All property *owners* shall keep such property and the adjoining unpaved portions of the public rights-of-way, swales and bulkheads clean and free from any accumulation of garbage, trash, liter, or debris.

(14) 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.

(15) The provisions of this Article shall be enforced pursuant to Chapter 15, Article I, of this Code, and by any other means permitted by law.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 18-1680 , § 3, 4-10-18; Ord. No. 19-1696 , § 2, 6-11-19; Ord. No. 20-1709 , § 4, 1-14-20)]

Sec. 90-~~254~~-256. Plant material.

1. ~~90-254.1~~ 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 100 percent coverage at time of planting and cut to fit all *landscape* planters and curb *areas*.

2. ~~90-254.2~~ Native vegetation.

50 percent of all *vegetation*, excluding all *turf* grass, required to be planted by this Code shall be indigenous to South Florida.

3. ~~90-254.3~~ 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 2½ percent of the site to be planted and preserved as an *native plant community*. *Sites* which consist of two to five *acres* may incorporate a *native plant community* into the *landscape* buffer or interior *landscaping* requirements.

4. ~~90-254.4~~ Trees:

~~(1)~~(a) Shade/canopy tree: Shade/canopy tree shall be a minimum *overall height* of 14 feet, six feet spread, 2½ inches *DBH* and five feet *clear trunk*. This category shall constitute 20 percent of the minimum required *trees*.

~~(2)~~(b) Intermediate trees: Intermediate *trees* shall be a minimum *overall height* of 12 feet, five feet spread, two inches *DBH* and 4½ feet *clear trunk*. This category shall constitute 20 percent maximum of the required *trees*.

~~(3)~~(c) Small trees: Small *trees* shall be a minimum *overall height* of ten feet, 4½ feet spread, one and 1½ inches *DBH* and four feet *clear trunk*. This category shall constitute no more than 20 percent of the required *trees*.

~~(4)~~(d) Palms: Palms shall have a minimum of six feet grey wood and shall constitute no more than 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 for one and planted with staggered heights.

NOTE: All proposed coconut palms shall be certified to be resistant to Lethal yellowing.

~~(5)~~(e) All *landscaping* including *shrubs* and *groundcover* shall be guaranteed for one year after final *landscape* inspection.

~~(6)~~(f) *Street tree* requirements:

~~(a)~~(1) *Street trees* shall be required at one shade *tree/palm tree* per 20 linear feet of *street frontage* thereof along all public or private *street* rights-of-way in all zoning *districts*.

~~(b)~~(2) *Street trees* shall be of a species typically grown in South Florida that normally matures to a height of at least 20 feet. *Street trees* shall have a *clear trunk* of over seven feet, an *overall height* of fourteen (14—16) feet and a minimum of 2½ inches *DBH* at time of planting. *Palm trees* utilized as *street trees* shall have eight foot *clear wood*.

~~(c)~~(3) 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)~~(4) *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)~~(5) *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*. A public works permit shall

be obtained prior to planting any *tree* in the right-of-way. *Trees* shall be planted in conformance with the Right *Tree*, Right Place Guidelines for planting *trees* near power lines published within Florida Power & Light's "Right *Tree*, Right Place" brochure, as amended.

~~(f)~~(6) *Street trees* planted along roadways and/or sidewalks shall be placed a minimum of four feet off the interior pavement edge.

~~(g)~~(7) *Street trees* planted within sidewalk or curbed planting *area* along parallel parking shall have a minimum planting *area* of six feet by six feet. If the *street tree* is planted within the sidewalk, root barrier(s) of minimum depth of 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)~~(8) 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. *Trees* must be maintained free and clear of powerlines and all *trees* and plantings shall be maintained in a manner which prevents and alleviates the danger of the *trees* damaging power lines, consulting with American Natural Standards Institute ("ANSI") A300 (Part I)—2001 Pruning Standards, as amended, and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and Removing *Trees*, and Cutting Brush Safety Requirements, as amended. 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.

~~(i)~~(9) If any property *owner* fails to maintain *trees* and other *landscaping* in right-of-way or on private property, as required by this Code, the *Town* shall provide a written warning with 45 days to remedy, after which, the *Town*

may take action and assess costs pursuant to article III, property maintenance standards of chapter 14.

~~(7)~~(10) Where the *Town* determines a *tree* or *landscaping* in the right-of-way poses an immediate threat to the health, safety and welfare of residents or is extremely likely to cause imminent damage to utilities or powerlines, said *tree* or *landscaping* may be removed by the *Town*, at the *owner's* expense. Such costs shall be assessed against a property *owner* and property pursuant to article III, property maintenance standards of chapter 14.

~~(7)~~(g) It shall be a violation of this Code of any *person* to plant, replant, permit to be planted or permit to be replanted any of the plants, *trees*, weeds, *shrubs* and *vegetation* listed below. In addition, these species shall be removed from the construction sites with the exception of existing *figus* *hedges* that have been damaged during a strong storm or hurricane. If 50 percent or more viable *figus* hedge material is left than the additional missing 50 percent or less can be replaced:

Botanical Name	Common Name
Acacia auriculiformis	Earleaf Acacia
Adenanthera pavonina	Red sandalwood
Aeginetiaspp. (all)	Aeginetia
Ageratina adenophora	Crofton weed
Albizia julibrissin	Mimosa
Albizia lebeck	Woman's Tongue
Alectra spp. (all)	Yerba de hierro
Alternanthera philoxeroides	Alligator weed
Alternanthera sessilis	Sessile joyweed
Araucaria heterophylla	Norfolk Island Pine
Ardisia crenata	Coral ardisia
Ardisia solanacea	Shoebutton Ardisia

Botanical Name	Common Name
Asphodelus fistulosus	Onionweed
Avena sterilis	Animated oat
Azolla pinnata	Asian mosquito fern
Bischofia javanica	Bischofia, Toog
Borreria alata	Broadleaf buttonweed
Brassaia actinophylla	Schefflera
Broussonetia papyrifera	Paper mulberry
Carthamus oxycantha	Wild safflower
Casuarina spp.	Australian Pine
Cestrum diurnum	Day blooming jasmine
Chrysopogon aciculatus	Pilipiliula
Cinnamomum camphora esculenta	Colocasia Camphor tree Taro
Colubrina asiatica	Latherleaf
Commelina benghalensis	Benghal dayflower
Crassula helmsii	Swamp stonecrop
Crupina vulgaris	Common crupina
Cupianopsis spp.	Carrotwood
Cuscuta japonica	Japanese dodder
Cuscuta megalocarpa	Bigfruit dodder
Cuscuta potosina	Globe dodder
Cuscuta spp. (except natives)	Exotic dodder vines
Dalbergia sissoo	Indian Rosewood
Digitaria abyssinica	Couch grass
Digitaria velutina	Velvet finger grass
Dioscorea alata	White yam
Dioscorea bulbifera	Air potato
Drymaria arenarioides	Alfombrilla
Eichhornia azurea	Anchored waterhyacinth
Eichhornia spp. (all)	Water hyacinths
Emex australis	Three-cornered jack

Botanical Name	Common Name
Emex spinosa	Devil's thorn
Enterolobium contortisliquum	Ear-pod <u>tree</u>
Eucalyptus spp. (1 or more)	Eucalyptus trees
Euphorbia prunifolia	Painted euphorbia
Fatoua spp. all	Fescue
Ficus altissima	False banyan
Ficus benghalensis	Banyan <u>tree</u>
Ficus benjamina	Weeping fig
Ficus carica	Edible fig
Ficus decora	Rubber tree
Ficus nitida/Ficus microcarpa	Cuban laurel
Ficus religiosa	Bo tree
Ficus spp. (all non-natives)	Ficus
Flacourtia indica	Governor's plum
Flueggea virosa	Flueggea
Foeniculum vulgare	Fennel
Fragaria chiloensis var. Ananassa	Strawberry
Fraxinus uhdei	Shamel ash
Galega officinalis	Goatsrue
Grevillea robusta	Silk Oak
Heracleum mantegazzianum	Giant hogweed
Hibiscus tiliaceus	Mahoe
Hydrilla verticillata	hydrilla
Hygrophila polysperma	Miramar weed
Imperata brasiliensis	Brazilian satintail
Imperata spp.	Cogon grass
Ipomoea aquatica Ipomoea fistulosa	Chinese waterspinach Shrub morning glory
Ipomoea triloba	Little bell morning glory
Jacaranda acutifolia	Jacaranda
Jasminum dichotomum	Gold Coast jasmine

Botanical Name	Common Name
Jasminum fluminense	Brazilian jasmine
Lagarosiphon major	Oxygen weed
Lagarosiphon spp. (all)	African elodeas
Lantana camara	<u>Shrub</u> verbena
Leptochloa chinensis	Asian sprangletop
Leucaena leucocephala	Lead <u>Tree</u> , Jumbie Bean
Ligustrum sinense	Chinese privet
Limnocharis flava	Sawa flowering-rush
Limnophila sessiliflora	Ambulia
Lonicera japonica	Japanese honeysuckle
Lycium ferocissimum	African boxthorn
Lygodium japonicum	Japanese climbing fern
Lygodium microphyllum	Old World climbing fern
Lythrum salicaria	Purple loosestrife
Manilkara zapota	Sapodilla
Melaleuca quinquenervia	Melaleuca or Paperbark
Melastoma malabathricum	Indian rhododendron
Melia azederach	Chinaberry tree
Merremia tuberosa	Woodrose
Mikania cordata	Mile-a-minute vine
Mikania micrantha	Mile-a-minute vine
Mimosa invisa	Giant sensitive plant
Mimosa pigra	Cat-claw mimosa
Monochoria hastata	Monochoria
Monochoria vaginalis	Asian pickerel weed
Myriophyllum spicatum	Eurasian watermilfoil
Nassella trichotoma	Serrated tussock
Nepenthes alternifolia	Indian elodea
Neyraudia reynaudiana	Burma reed
Orobancha spp. except (O. uniflora)	Broomrape
Oryza longistaminata	Red rice

Botanical Name	Common Name
<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</i> spp. (Except natives)	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</i> spp.	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

Botanical Name	Common Name
<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

~~(8)~~(h) 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)~~(i) The *use* of plant materials that reinforce the ambience of the *Town's* distinctive, lush, subtropical character is encouraged.

~~(10)~~(j) 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
Arborvitae spp.	Thuja
Dypsis lutescens	Areca Palm
Veitchia merrillii	Christmas Palm
Cupressus sempervirens	Italian Cypress
Caryota mitis	Fishtail Palm
Citrus spp.	Citrus
Nerium oleander	Oleander
Ravenala madagascariensis	Travelers Tree
Phoenix roebelenii	Pygmy Date Palm
Sterlizia nicolai	White Bird of Paradise

~~(11)~~(k) All *trees* and palms must be a minimum of four feet from all underground utility lines. Also, refer to the *site* lighting and fire hydrant requirements for *tree* and palms.

~~(12)~~(l) All invasive exotic pest plants shall be removed from the site prior to final inspection.

~~(13)~~(m) All *landscape* substitutions including *shrubs* and *groundcover* shall require *Town* approval prior to installation.

~~(14)~~(n) No more than 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

5. ~~90-254.8~~ Shrubs and hedges.

(1)(a) Shrubs shall be a minimum of two feet high, full to base, two feet spreads and planted two feet on center when measured immediately after planting. If the spreads can not be met with the two feet requirement then 18 inches spreads and 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 feet in height above the vehicular *open space* pavement surface that directly abuts the *shrubs* at time of planting and branch touching branch.

(2)(b) Required buffer *hedges* shall be planted two feet high, full to the base, two-foot spreads and two 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 feet, to be attained within one year after planting. If the spreads can not be met with the two-foot requirement then 18-inches spreads and 18 inches on centers can be utilized.

(3)(c) Shrubs shall be planted so the branches do not touch the *building walls* or walkways at time of planting.

(4)(d) Ficus spp., when planted as a *hedge*, may be used to meet the requirements of dumpster enclosure, mechanical equipment and electrical transformer screening only.

6. ~~90-254.6~~ Vines.

Vines shall be full and a minimum of 30 inches in supported height immediately after planting. The method of attachment shall be indicated on the *landscape plans*.

7. ~~90-254.7~~ Groundcover.

Groundcovers shall be full and planted with a minimum of 75 percent coverage with 100 percent coverage occurring within three months of installation. All ground cover shall be planted so not to touch the *building walls* or walkways at time of planting.

8. ~~90-254.8~~ *Turf*:

~~(1)~~(a) 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)~~(b) *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)~~(c) *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)~~(d) The following percentages shall apply to *turf areas*:

~~(a)~~(1) No more than 80 percent of the *landscape area* for *single-family* and *duplex dwellings* may be in *turf* grass.

~~(b)~~(2) No more than 60 percent of the *landscape area* for *multifamily dwellings* may be in *turf* grass.

~~(c)~~(3) No more than 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.

9. ~~90-89254.9~~ 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 50 percent muck and 50 percent sand or 80 percent sand and 20 percent muck.

[(Ord. No. 1558, § 2(Exh. A), 6-8-10; Ord. No. 18-1680 , § 3, 4-10-18)]

Sec. 90-~~255.~~ 257. Vegetative provisions.

1. ~~90-255.1~~ Florida Friendly.

~~(1)~~(a) A minimum of ~~20~~40 percent of the *pervious area* on *single family* and *duplex dwellings* must be in *Florida Friendly landscape*. For purposes of calculating this percentage, the area of Florida Friendly landscaping shall include the estimated tree canopy of any trees at time of planting.

~~(2)~~(b) A minimum of 40 percent of the *pervious area* of *multifamily dwellings* must be *Florida Friendly landscape*. For purposes of calculating this percentage, the area of Florida Friendly landscaping shall include the estimated tree canopy of any trees at time of planting.

~~(3)~~(c) A minimum of 50 percent of the *pervious area* of all other development *uses* must be in *Florida Friendly landscape*. For purposes of calculating this percentage, the area of Florida Friendly landscaping shall include the estimated tree canopy of any trees at time of planting.

2. ~~90-90255.2~~ 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.

3. ~~90-90255.3~~ Invasive exotic plant material.

As a condition of approval, the property owner shall remove all invasive exotic species from the property prior to final.

[Ord. No. 1558, § 2(Exh. A), 6-8-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-~~256.~~ 258. Landscape buffer areas between residential and non-residential properties and vehicular use areas.

1. ~~90-256.1~~ Applicability:

All proposed development or *redevelopment sites* and *vehicular use areas* serving H30C, H40, H120, 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 shall be exempt. Expansive concrete or paver *areas* shall require *landscaping* to soften and scale the *buildings*.

2. ~~90-256.2~~ Required buffer *landscaping* adjacent to *streets* and abutting properties:

On any proposed, redeveloped site, or open *lot* providing a *vehicular use area* for H30C, H40, H120, 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 feet in depth, located along all the property lines of abutting *street(s)* and abutting property line(s) shall be *landscaped*, except that the *landscape* buffer abutting Collins Avenue in the H120 *district* shall begin 2.5 feet east of the east edge of public sidewalk and shall be 7.5 feet wide. The 2.5-foot *area* between the public sidewalk and *landscaping* shall be improved with the same surface treatment as the public sidewalk to result in a wider pedestrian path along the east side of Collins Avenue. All *landscape* buffers shall include three *trees* for each 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 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 Florida Friendly 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 Florida Friendly 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 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 or less contiguous parking stalls along the same parking aisle, the eleventh space shall be a *landscaped* peninsula a minimum of 11 feet in width with a minimum of ten feet wide *landscape area*. Also, all rows of parking shall be terminated with 11 feet in width *landscape* islands with ten feet wide *landscape area*. In addition, there shall be a minimum requirement of one shade *tree* and 25 *shrubs* planted for every *landscaped* island. If *landscaped* divider medians are utilized, they must be a minimum of six feet wide. The minimum dimensions of all proposed *landscaped areas* not mentioned in this chapter shall be six 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 2½feet 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 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*.

[Ord. No. 1554, § 2, 6-8-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-~~257~~-259. Reserved.

Editor's note— Ord. No. 1626, § 3, adopted Nov. 18, 2014, repealed former § 90-~~92~~94 in its entirety which pertained to sight triangles and clearance and derived from Ord. No. 1558, § 2(Exh. A), adopted Aug. 10, 2010.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-~~258~~-260. 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 Florida Friendly requirements.

(b) Along all *buildings and structures*, mature *landscaping* at installation shall be installed at one-half the *height of the building or structure* at one *tree* per 25 linear feet of each *building's* facade on all sides for scaling and softening. On *buildings* over 75 feet in height the proposed *trees/palms* shall be at least 35 to 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 *tree* per 25 feet being one-half the *height of the building* at installation. Additionally, *shrubs* and *groundcovers* shall be added to enhance the *building*. In all *districts* except the SD-B40 *district*, a minimum six-foot-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 <i>space</i> (Amount of Pervious Landscape Planting Area)	Tree and Shrub Requirements
Less than 30%	1 <i>tree</i> and 10 <i>shrubs</i> per 1,000 sf
30—39%	1 <i>tree</i> and 8 <i>shrubs</i> per 1,500 sf
40—49%	1 <i>tree</i> and 6 <i>shrubs</i> per 2,000 sf
50% or more	1 <i>tree</i> and 6 <i>shrubs</i> 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 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 foot above. In addition, bus shelters which are located within property lines shall be screened with plant material a minimum of two feet in height on three sides, and one *canopy tree*, 14 feet in height or three palms.

(4) Signs: All ~~freestanding~~*Freestanding* *sign* installations require the installation and establishment of plant material to enhance the *structure*, at a minimum of one *shrub* for every two feet of lineal width of the *sign structure* on each side; and *groundcover*, a minimum of five 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*.

[Ord. No. 1554, § 2, 6-8-10; Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-~~259~~-*261*. 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 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 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 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 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 2½ foot tall undulating and meandering *landscape berm* at three to one 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*.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Sec. 90-260--262. 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*: Except for new construction, 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 modifications to existing H30A and H30B *dwellings*, however, plans are recommended. New construction in H30A and H30B shall provide a *landscape and tree* disposition plan prepared by a registered *landscape architect* at the time of application for design review.

(2) General *landscape* treatment: ~~Trees~~For all new construction, *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 Florida Friendly to be a minimum of ~~20~~40 percent of the *area of open space* of the site. For purposes of calculating this percentage, the *area* of Florida Friendly *landscaping* shall include the estimated *tree canopy* of any *trees* at time of planting.

(3) *Shrub and tree* requirements:

(a) A minimum of five *trees* of two different species and 25 *shrubs* shall be planted per *lot*. On *corner lots* an additional one *tree* and 10 *shrubs* shall be required. For all *lots* larger than 8,000 square feet in *area*, additional *shrubs* and *trees* shall be provided at the rate of one *tree* and ten *shrubs* per 2,000 square feet of *lot area*; however, there shall be no more than 15 *trees* and 100 *shrubs* required per *acre*.

(b) Where possible, a minimum of two *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 30 percent at an *overall height* of 12 feet to 14 feet with a minimum *canopy* spread of five feet and a *DBH* of 2½ inches. The small *trees* can be a maximum of 30 percent at 12 to 14 feet and minimum *canopy* spread of six feet and *DBH* of 2½ inches. Palm *trees* shall have a minimum of six feet of grey wood or *clear wood* and are counted as three for one (unless from the one for one list) and total palms can not make up more than 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 19-1696 , § 2, 6-11-19]

Sec. 90-~~261~~-263. 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* shall inspect all projects for compliance prior to issuance of a *certificate of use*, *certificate of occupancy*, or certificate of completion.

[Ord. No. 1558, § 2(Exh. A), 8-10-10)]

Sec. 90-~~261~~264. - 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 with in 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10)]

Sec. 90-~~262~~265. - 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.

[Ord. No. 1558, § 2(Exh. A), 8-10-10]

Secs. 90-~~263-269~~266-272. Reserved.

ARTICLE VI. - REASONABLE ACCOMMODATION AND RELIGIOUS LAND USE RELIEF PROCEDURES

Sec. 90-~~270~~273. - Religious land use relief procedures.

This section implements the policy of the ~~town~~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~~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~~Town Commission shall have the authority to consider and act on requests for reasonable relief submitted to the ~~town planner~~Town Planner, after notice as provided in subsection (7). 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~~Commission. The ~~commission~~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~~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~~Commission meeting.

The requesting party shall have 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 15 day period, the ~~town attorney~~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~~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~~Town has imposed a substantial burden on the religious exercise of the applicant, whether a *person*, religious assembly or instruction, and the burden is not a result of the ~~town~~Town furthering a compelling governmental interest and is not the least restrictive means of furthering that compelling governmental interest; or

(c) The ~~town~~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.

(d) No fee shall be imposed by the ~~town~~Town in connection with a request for reasonable relief under this section. The ~~town~~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.

(e) While an application for reasonable relief is pending before the ~~town~~Town, the ~~town~~Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.

(f) The ~~town~~Town shall display a notice in the ~~town's~~Town's public notice bulletin board and shall maintain copies available for review in the ~~town-clerk's~~Town Clerk's office, advising the public that a request for relief under RLUIPA or RFRA has been filed with the ~~town-commission~~Town Commission.

[Ord. No. 1510, § 2, 1-13-09]

Sec. 90-~~271~~-274. Reasonable accommodation procedures.

(a) Implementation of policy. This section implements the policy of the ~~town~~Town for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for *persons* with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601 *et seq.*) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 *et seq.*) ("ADA"). For purposes of this section, a "disabled" individual or *person* is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any *person* who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the ~~town's~~Town's ordinances, rules, policies, practices and/or procedures (hereinafter, for the purposes of this section, the "*Town Regulations*") as provided by the FHA and the ADA pursuant to the procedures set out in this section. The ~~town-commission~~Town Commission shall appoint a special master who shall make final determinations on applications for reasonable accommodations related to relief from *Town Regulations*.

(b) Request to be in writing. A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the ~~town-manager~~Town Manager. The reasonable accommodation form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. For a reasonable accommodation to any of the ~~town~~Town *regulations* pertaining to housing or zoning, the application, shall, at a minimum, require the following information:

(1) Name and contact information for applicant or applicant's authorized representative;

- (2) Address of housing or other location at which accommodation is requested;
- (3) Description of reasonable accommodation required;
- (4) A description of the accommodation and the specific *regulation(s)* and/or procedure(s) from which accommodation is sought;
- (5) Reason(s) the reasonable accommodation may be necessary for the individual(s) with disabilities to use and enjoy the housing or other service;
- (6) A statement as to whether the applicant is seeking the accommodation in order to make housing and/or provision of housing financially viable, with supporting documentation;
- (7) A statement as to whether the applicant is seeking the accommodation is therapeutically necessary, with supporting documentation; and
- (8) Proof of satisfactory fire, safety, and health inspections required by F.S. § 397.487, as amended, and other applicable law.

(c) Medical information; confidentiality. Should the information provided by the disabled individual to the ~~town~~Town include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual(s), such individual(s) may, at the time of submitting such medical information, request that the ~~town~~Town, to the extent allowed by law, treat such medical information as confidential information of the disabled individual(s). The ~~town~~Town shall thereafter endeavor to provide written notice to the disabled individual(s), and/or their representative, of any request received by the ~~town~~Town for disclosure of the medical information or documentation which the disabled individual(s) has previously requested be treated as confidential by the ~~town~~Town. The ~~town~~Town will cooperate with the disabled individual(s), to the extent allowed by law, in actions initiated by such individual(s) to oppose the disclosure of such medical information or documentation, but the ~~town~~Town shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other

expenses (whether by retention of outside counsel or allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual(s).

(d) Determination process.

(1) The special master shall issue a written determination within 60 days of the date of receipt of a completed application or a date mutually agreeable to both the ~~town~~Town and the applicant, except as provided in paragraph 3, below, and may, in accordance with federal law:

a. ~~a.~~ Grant the accommodation request,

b. ~~b.~~ Grant a portion of the request and deny a portion of the request and/or impose conditions upon the grant of the request, or

c. ~~c.~~ Deny the request in accordance with federal law. If the request is denied, the order shall state the grounds therefore. All written determinations shall give notice of the right to appeal.

(2) The notice of determination shall be sent to the applicant (i.e., the disabled individuals or representative) by certified mail, return receipt requested.

(3) If reasonably necessary to reach a determination on the request for reasonable accommodation, the special master or ~~town-manager~~Town Manager or designee, prior to the end of said 60-day period, may request additional information from the applicant, specifying in sufficient detail what additional information is required. The applicant shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 60-day period to issue a written determination shall no longer be applicable, and the special master shall issue a written determination within 30 days after receipt of the additional information or 90 days after the initial receipt of the application, whichever is later. If the applicant fails to provide all of the requested additional information within said 15-day period, the ~~town manager~~Town Manager or designee shall issue a written notice advising

that the applicant has failed to timely submit the additional information and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the ~~town~~[Town](#) with regard to said reasonable accommodation request shall be required. Such time frames may be extended by mutual agreement of the ~~town~~[Town](#) and the applicant.

(e) Criteria for determination. In determining whether the reasonable accommodation request shall be granted or denied, the applicant shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped, disabled or qualifying entities, as defined in the FHA and/or ADA. Further, the applicant must demonstrate that:

(1) A physical or mental impairment which substantially limits one or major life activities; a record of having such impairment; or that they are regarded as having such impairment.

(2) That the proposed accommodations being sought are reasonable and necessary. The foregoing (as interpreted by the courts in evaluating reasonable accommodation requests under the FHA or ADA) shall be the basis for a decision upon a reasonable accommodation request made by the special master, or by the ~~town-commission~~[Town Commission](#) in the event of an appeal.

(3) The requested accommodation would not fundamentally alter the ~~town's~~[Town's](#) zoning scheme.

The special master may impose conditions or modifications he/she deems necessary to mitigate any factors which would fundamentally alter the ~~town's~~[Town's](#) zoning scheme or to protect the public health and safety or are reasonably necessary to assure compliance with his/her order.

(f) Appeal of determination. Within 30 days after the special master's determination on a reasonable accommodation request, or any order or action of the special master with respect to the application of this section, is mailed to the applicant, such applicant may appeal the decision to the ~~town-commission.~~[Town Commission](#). All appeals shall contain a statement containing sufficient detail of

the grounds for the appeal. Appeals shall be to the ~~town-commission~~Town Commission who shall, after public notice and a public hearing, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. Where the appeal is based upon a provision of the ~~town~~Town regulations, the ~~planning~~Planning and ~~zoning-board~~Zoning Board shall first hold a hearing to make a recommendation on the appeal to the ~~town commission~~Town Commission.

(g) Fees. There shall be no fee imposed by the ~~town~~Town in connection with a request for reasonable accommodation under this section or an appeal of a determination on such request to the ~~town-commission~~Town Commission, and the ~~town~~Town shall have no obligation to pay an applicant's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

(h) Stay of enforcement. While an application for reasonable accommodation, or appeal or a determination of same, is pending before the ~~town~~Town, the ~~town~~Town will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.

(i) Miscellaneous provisions. The following general provisions shall be applicable:

(1) The ~~town~~Town shall display a notice in the ~~town's~~Town's public notice bulletin board (and shall maintain copies available for review in the *building/permitting* division, and the ~~town-clerk's-office~~Town Clerk's Office), advising the public that disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.

(2) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a *person* designated by the disabled individual.

(3) The ~~town~~Town shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled *person's* request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions,

completing the form, filing an appeal; and appearing at a hearing, etc., to ensure the process is accessible.

(j) Revocation of reasonable accommodation. Any reasonable accommodation received shall be deemed revoked if the applicant or the property upon which the accommodation is granted is found in violation of any provision of the order granting the reasonable accommodation by a court of law or by the special master hearing code enforcement cases.

(k) Recertification. All reasonable accommodation requests approved by the ~~town~~Town are valid for no more than two years. Recertification requests must be filed at least 90 days before the conclusion of the end of the two-year period of effectiveness of the reasonable accommodation order. The process for recertification shall follow the same requirements as set forth above for "Requests for Accommodation", and review of recertification requests shall follow the same procedures as outlined above for new applications. The failure of the applicant to timely apply for annual recertification, or the denial of an application to recertify annually, shall result in the revocation of the approved reasonable accommodation. Recertification requests shall follow the same requirements as set forth above.

[Ord. No. 18-1693 , § 2, 12-11-18]

Sec. 90-~~272~~275. Architecturally Significant Buildings.

1. ~~Sec. 90-272.1.~~ Applicability. This section shall apply to: (a) any *structure* designated as historic by the Miami-Dade County Historic Preservation Board; and (b) any other commercial *building* on Harding Avenue or any *hotel* or *multifamily building* on Collins Avenue designated an *Architecturally Significant Building* by the ~~town commission~~Town Commission under the process described herein.

2. ~~Sec. 90-272.2.~~ Designation of Architecturally Significant Building.

(a) Requests for designation of an *Architecturally Significant Building* may be made to the ~~town commission~~Town Commission by the ~~city manager~~City Manager, by resolution of the ~~planning~~Planning and ~~zoning board~~Zoning Board or by motion of the ~~city commission~~City Commission, by any property owner in respect to his own property, by resolution of the county historic preservation board, or by

resolution of any organization whose purpose is to promote the preservation of architecturally significant sites. Any non-governmental applicant shall pay the appropriate fee for review set forth in the ~~town's~~Town's schedule of fees.

(b) Review. Upon receipt of a completed application and fees, if applicable, the ~~town planner~~Town Planner shall prepare an evaluation and recommendation for consideration by the ~~planning~~Planning and ~~zoning board~~Zoning Board. After considering the department's recommendation, a majority vote of the ~~planning~~Planning and ~~zoning board~~Zoning Board shall be necessary to have the determination on designation reviewed for final approval by the ~~town commission~~Town Commission, which shall have full power to approve or deny the designation.

(c) Criteria for designation. The ~~town planner, planning~~Town Planner, Planning and ~~zoning board~~Zoning Board, and the ~~town commission~~Town Commission shall consider and evaluate the propriety of designating a *building* or *structure* as an *Architecturally Significant Building*, considering specifically the extent to which the *building* or *structure(s)*:

1. ~~a.~~—Embodies the distinctive characteristics of a historical period, architectural or design style or method of construction, and incorporate at least two of the typical characteristics of its architectural style to be deemed to be architecturally significant or, alternatively, must have been designed by an architect well-known for the style in South Florida. Elements of the relevant styles are as follows:

~~i.~~i.—Miami Modern.

~~a.~~(A)—Use of concrete block or exposed concrete.

~~b.~~(B)—Use of asymmetry, acute angles, boomerang shapes, cutouts, pylons, arches, geometric shapes, repetitive motifs or hyperparaboloids.

~~c.~~(C)—Use of plate-glass, ribbon, clerestory and canted windows.

~~d.~~(D)—The mixture of two or more textured surfaces.

~~e.~~(E)—Use of brise-soleils and architectural screen block.

~~f.~~(F)—Overhanging roof plates and projecting floor slabs.

~~g.~~(G)—Exemplifies a regional style of architecture constructed in the post-war period.

~~ii.~~ii.—Streamline Modern.

~~a.~~(A)—*Building* forms that evoke automobiles, trains, ocean liners, and airplanes.

~~b.(B)~~—*Massing* that reflects abstract, simplified forms with rounded corners devoid of much applied decoration.

~~c.(C)~~—Horizontal compositions, bands of windows, racing stripes, and *flat roofs*.

~~d.(D)~~—Use of vitrolite, glass block, chrome, stainless steel, and terrazzo.

~~e.(E)~~—*"Eyebrow"* ledges over the windows, front porches,

~~f.(F)~~—Use of nautical motifs like porthole windows, and bas-relief panels depicting tropical scenes.

~~iii.iii.~~—Mediterranean Revival.

~~a.(A)~~—Use of bell towers, *awnings*, porches, balconies, carved stonework.

~~b.(B)~~—Style reflects the architectural influences of the Mediterranean coast: Italian, Byzantine, French, and Moorish themes from southern Spain.

~~c.(C)~~—Application of Spanish baroque decoration to openings, balconies, and cornices.

~~d.(D)~~—Use of arches, parapets, twisted columns, pediments, and other classical details.

~~e.(E)~~—Use of stucco *walls*, red tile roofs, wrought iron grilles and railings, wood brackets and balconies.

~~f.(F)~~—Use of casement windows.

~~b.2.~~ Possesses high artistic values.

~~c.3.~~ Represents the work of a master, serve as an outstanding or representative work of a master designer, architect or builder who contributed to our historical, aesthetic or architectural heritage.

~~d.4.~~ Any other consideration relevant to the design, architecture, or function of a *building*.

(d) Notice, Requests for Deferral, Permit Hold. All hearings before the ~~planning~~Planning and ~~zoning board~~Zoning Board or the Town Commission shall be noticed in the same manner as a special exception with additional notice mailed to the property *owner* of the *site* under consideration for designation by certified mail, return receipt requested postmarked at least 15 days before the hearing. The property *owner* of the property under consideration for designation shall be entitled to one deferral without cause. Any subsequent request for deferral by the property *owner* shall be for cause in the sole discretion of the appropriate board.

(e) Permit hold. *Building* permits of any kind, including demolition permits, shall not be issued for a property under consideration after the postmark date of the notice to the property owner prior to the ~~planning~~Planning and ~~zoning-board~~Zoning Board, until the matter reaches final disposition. In the event that final disposition of the matter is to approve the designation, permits may ~~thereafter~~thereafter only be issued for work in compliance with this section.

(f) Quasi-judicial hearings. All public hearings on designation shall be quasi-judicial and shall be conducted subject to the ~~town's~~Town's procedures for quasi-judicial hearings.

(g) Appeal. A decision of the ~~town-commission~~Town Commission on designation may be appealed to a court of competent jurisdiction subject to the appropriate rules of procedure for that court. The hold on the *building* permit shall not dissolve until such time as a final decision is made, including any subsequent appeals available under general law.

3. ~~Sec. 90-272.3.~~ Certificate of Appropriateness. A certificate of appropriateness (COA) shall be required prior to the issuance of any permit for new construction, demolition, alteration, rehabilitation, renovation, restoration, signage or any other physical modification affecting any *building, structure, improvement, landscape* feature, public interior or site individually designated in accordance with this section. In granting a certificate of appropriateness, the planning department may prescribe appropriate conditions and safeguards, either as part of a written order or on approved plans. Violation of such conditions and safeguards, when made a part of the terms under which the certificate of appropriateness is granted, shall be deemed a violation of these land development *regulations*.

(a) An application for a certificate of appropriateness may be filed with the ~~town planner~~Town Planner at the same time or in advance of the submission of an application for a *building* permit. Copies of all filed applications shall be made available for inspection by the general public.

(b) Applications shall, at a minimum, provide the information required for design review of commercial *structures* as set forth in this code, and shall include any additional, relevant information supporting the request.

(c) The ~~town-planner~~Town Planner shall review the application and shall refer the application to any consultant whose review and opinion is considered advisable. In addition, where appropriate, the ~~town-planner~~Town Planner may refer the application to the Miami-Dade County Office of Historic Preservation for their input. The ~~town-planner~~Town Planner shall prepare a recommendation based on all relevant information and shall place the application on agenda of the ~~planning~~Planning and ~~zoning-board~~Zoning Board within 60 days of the application submittal.

(d) Upon notice as required for design review/site plan of commercial buildings, the ~~planning~~Planning and ~~zoning-board~~Zoning Board shall consider the application at a quasi-judicial public hearing, and may approve, approve with conditions, or deny the application after considering the following:

~~a-1.~~1. Evaluation of the compatibility of the physical alteration or improvement with surrounding properties and where applicable compliance with the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as revised from time to time, and any other guidelines/policies/plans adopted or approved by resolution or ordinance by the ~~town-commission~~Town Commission.

~~b-2.~~2. Compatibility with surrounding properties as determined by exterior architectural features, general design, scale, massing and arrangement, texture and material and color, relationship to other structures and features in the vicinity, and the original architectural design or any subsequent modifications that have acquired significance

~~c-3.~~3. Where the certificate of appropriateness is considered in connection with a request for relief available under Section 90-~~77~~78, the building must not be altered in a manner that substantially impacts the original building design or obscures the significant architectural elements in a manner that cannot be reversed without unreasonable expense, and significant exterior architectural characteristics, features, or details of the building remain intact. Any proposed alteration or addition must be designed in a manner that is compatible with the existing building.

(e) A decision of the ~~planning~~Planning and ~~zoning-board~~Zoning Board may be appealed by the ~~town-manager~~Town Manager or the applicant within 15 days of the decision. If no appeal is filed within 15 days of the ~~planning~~Planning and ~~zoning-board~~Zoning Board decision, the decision shall be final. In the event of an appeal, the ~~city-commission~~City Commission shall hold a quasi-judicial public hearing to consider the matter de novo under the applicable criteria and may approve, approve with conditions, or deny the application. A decision of the ~~town-commission~~Town Commission on designation may be appealed to a court of competent jurisdiction subject to the appropriate rules of procedure for that court.

4. ~~Sec. 90-272.4.~~ Maintenance and Demolition by Neglect. The owner of any building, structure, improvement, landscape feature, public interior or site individually designated in accordance with this section, whether vacant or inhabited, shall be required to properly maintain and preserve such building or structure in accordance with standards set forth in the applicable Florida Building Code, this article and this Code. For purposes of this section, demolition by neglect is defined as any failure to

comply with the minimum required maintenance standards of this section, whether deliberate or inadvertent.

(a) Any *building* or *structure* designated as an *Architecturally Significant Building* shall be maintained according to minimum maintenance standards, preserved against decay, deterioration and demolition and shall be free from structural defects through prompt and corrective action to any physical defect which jeopardizes the *building's* historic, architectural and structural integrity; such defects shall include, but not be limited to, the following:

~~a-1.~~ 1. Deteriorated or decayed facades or facade elements, including, but not limited to, facades which may structurally fail and collapse entirely or partially;

~~b-2.~~ 2. Deteriorated or inadequate foundations;

~~c-3.~~ 3. Defective or deteriorated flooring or floor supports or any structural members of insufficient size or strength to carry imposed loads with safety

~~d-4.~~ 4. Deteriorated *walls* or other vertical structural supports, or members of *walls*, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;

~~e-5.~~ 5. Structural members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

~~f-6.~~ 6. Deteriorated or ineffective waterproofing of exterior *walls*, roofs, foundations or floors, including broken or missing windows or doors;

~~g-7.~~ 7. Defective or insufficient weather protection which jeopardizes the integrity of exterior or interior *walls*, roofs or foundation, including lack of paint or weathering due to lack of paint or other protective covering;

~~h-8.~~ 8. Any *structure* which is not properly secured and is accessible to the general public;

~~i-9.~~ 9. Any fault or defect in the property that renders it structurally unsafe or not properly watertight; or

~~j-10.~~ 10. The spalling of the concrete of any portion of the interior or exterior of the *building*.

(b) Notice, administrative enforcement and remedial action. If any designated *building* or *structure*, in the opinion of the ~~town commission, planning~~ Town Commission, Planning and ~~zoning board, town manager~~ Zoning Board, Town Manager, or the ~~town's building official~~ Town's Building Official, falls into a state of disrepair so as to potentially jeopardize its structural stability and/or

architectural integrity, and/or the safety of the public and surrounding *structures*, or fails to satisfy any of the required minimum maintenance standards above, the ~~building-official~~[Building Official](#) shall have right of entry onto the subject property and may inspect the subject property after 48 hours' notice to the *owner* of intent to inspect. In the event the property *owner* refuses entry of any ~~town-official~~[Town Official](#) onto the subject property, the ~~town~~[Town](#) may file an appropriate action compelling the property *owner* to allow such officials access to the subject property for an inspection. Upon completion of the inspection of the subject property, a report delineating the findings of such inspection, as well as any remedial action required to address any violation of the required minimum maintenance standards, shall be transmitted to the property *owner*. The ~~town~~[Town](#) may require that the property *owner* retain a professional structural engineer, registered in the state, to complete a structural evaluation report to be submitted to the ~~town~~[Town](#). Upon receipt of such report, the property *owner* shall immediately take steps to effect all necessary remedial and corrective actions to restore the *structure's* or *building's* compliance with the required minimum maintenance standards herein; remedial action in this regard shall include, but not be limited to, the structural shoring, stabilization and/or restoration of any or all exterior *walls*, including their original architectural details, interior loadbearing *walls*, columns and beams, roof trusses and framing, the blocking of openings and securing of existing windows and door openings, as well as sealing of the roof surface against leaks, including from holes, punctures, open stairwells, elevator shafts and mechanical systems roof penetrations as necessary to preserve the *building* or *structure* in good condition. The *owner* shall substantially complete such remedial and corrective action within 30 days of receipt of the report, or within such time as deemed appropriate by the ~~building-official~~[Building Official](#), in consultation with the ~~town-manager~~[Town Manager](#). Such time may be extended at the discretion of the ~~building-official~~[Building Official](#), in consultation with the ~~town-manager~~[Town Manager](#).

(c) Injunction and remedial relief. If the *owner* of the subject property, in the opinion of the ~~building-official~~[Building Official](#), fails to undertake and substantially complete the required remedial and corrective action within the specified time frame, the ~~town~~[Town](#) may, at the expense of the property *owner*, file an action seeking an injunction ordering the property *owner* to take the remedial and corrective action to restore the *structure's* or *building's* compliance with the required minimum maintenance standards herein and seeking civil penalties as herein provided; Such civil action may only be initiated at the discretion of the ~~town-manager~~[Town Manager](#) or ~~town-commission~~[Town Commission](#). The court shall order an injunction providing such remedies if the ~~town~~[Town](#) proves that the property *owner* has violated the required minimum maintenance standards or any portion of this section.

(d) Civil penalties. Violation of this section, or of the terms of any certificate of appropriateness, shall be punishable by a civil penalty of up to \$5,000.00 per day, for each day that the remedial and corrective action is not taken.

(e) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any designated *building* or *structure* which does not involve a change of design, appearance or material, and which does not require a *building* permit or certificate of appropriateness. Any designated *building* or *structure* that is the subject of an application for a certificate of appropriateness for demolition shall not have its architectural features removed, destroyed or modified until and only if the certificate of appropriateness is granted. *Owners* of such property shall be required to maintain such properties in accordance with all applicable codes up to the time the *structure* is demolished.

(f) Vacant buildings and structures. The *owner* of any designated *building* or *structure* which is proposed to be vacated and closed, or is vacated and closed for a period of four weeks or more, shall make application for certificate of appropriateness approval and a *building* permit to secure and seal such *building* or *structure*. The *owner* or the *owner's* designated representative, shall notify the ~~town's building official~~Town's Building Official and ~~town manager~~Town Manager, in writing of the proposed date of vacating such *building* or *structure*.

(g) Liens based on civil penalties. Any and all liens referenced or imposed hereafter, based on the foregoing provisions, shall be treated as special assessment liens against the subject real property, and until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved; the maximum rate of interest allowable by law shall accrue to such delinquent accounts. Such liens shall be enforced by any of the methods provided in Fla. Stat. Ch. 86 or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions applicable to practice, pleading and procedure for the foreclosure of mortgages on real estate set forth in Florida Statutes, or may be foreclosed per Fla. Stat. Ch. 173, or the collection and enforcement of payment thereof may be accomplished by any other method authorized by law. The *owner* and/or operator shall pay all costs of collection, including reasonable attorney fees, incurred in the collection of fees, service charges, penalties and liens imposed by virtue of this section.

Secs. 90-~~273~~276 — 90-~~280~~283. Reserved.

Appendix A – previously approved ~~design guidelines~~Design Guidelines

TOWN OF SURFSIDE

NOTICE OF ZONING IN PROGRESS

Chapter 90 - Zoning Code

Pursuant to Section 90-6 of the Code of the Town of Surfside, Florida (the “Code”), the Town of Surfside published a Notice of Zoning in Progress on May 10, 2020 relative to a proposed repeal and replacement of Chapter 90 of the Code titled “Zoning” (the “Current Zoning Code”). The Town issued new Notices of Zoning in Progress on August 9, 2020, November 24, 2020, March 8, 2021, June 7, 2021, September 7, 2021, and December 7, 2021. The Town of Surfside hereby provides new Notice of Zoning in Progress effective upon the date of publication of this Notice.

At publicly noticed special meetings held on April 28, 2020, May 14, 2020, July 28, 2020, November 19, 2020, January 14, 2021, and March 2, 2021 and workshops on June 3, 2020, July 1, 2020, February 4, 2021, February 18, 2021, April 20, 2021, April 27, 2021, May 26, 2021, June 22, 2021, September 9, 2021, October 26, 2021, December 7, 2021, and January 18, 2021, the Town of Surfside Commission considered the proposed repeal and replacement of the Current Zoning Code, and instructed Staff to prepare an ordinance repealing the Current Zoning Code and replacing it with a zoning code that reflects land development regulations in effect on or about August, 2006 (the “2006 Zoning Code”), and certain modifications including, but not limited to, the following:

- Lot coverage means the percentage of the Lot area that, when viewed from above, would be covered by all principal and accessory buildings and structures (except swimming pools, fences, screen enclosures, and pergolas), or portions thereof. In the H30A and H30B single family districts, the lot coverage is limited to a maximum forty percent (40%) of the lot; provided however that the following exemptions shall not be included in determining the lot coverage:
 1. Uncovered steps and exterior balconies; and
 2. Uncovered terraces, patios, breezeways, or porches which are open on two (2) or more sides; and
 3. Covered terraces, patios, breezeways, or porches which are open on two (2) or more sides.

In no instance may the sum of the lot coverage and all exemptions permitted by (a) through (c) listed above exceed 48% of the lot area.

For avoidance of doubt, architectural elements extending beyond the vertical plan of exterior *walls*, such as roof eaves, shall not be counted as *lot coverage*. In the H30A and H30B districts, second story lot coverage is limited to 32% of the lot area, or 80% of the first floor area, whichever is less.

- Existing setback requirements set forth in the Current Zoning Code will continue to apply, unless there is a greater restriction in the 2006 Zoning Code, except that only the following projections/encroachments shall be permitted:
 1. In the H30A and H30B districts, and in H30C districts west of Harding Avenue, eaves of sloped roofs may project up to twenty four (24) inches into any required yard. All other ornamental or screening features in the H30A and H30B districts, including cornices, sills, frames, and fins, may project no more than six (6) inches into any required yard.
 2. In the H30A and H30B districts, lots with a depth greater than 112.5 feet will be required to provide front and rear yards that combine to equal at least thirty-six percent (36%) of the lot's depth. This requirement shall not be read to alter or justify reduction of front and rear setbacks for the first and second stories. The intention of this provision is to ensure that adequate yards are provided.
- In the H30A and H30B districts, each lot must provide:
 1. 35% of each lot must be pervious area; and
 2. 50% of front yards and 40% of rear yards must be landscaped; and
 3. 40% of all landscaped area must be Florida Friendly as defined in the Current Zoning Code.
- The Current Zoning Code's definition of building height will continue to apply to single family districts. For the H120 district only, the maximum building height of 120 feet is measured from the elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The maximum building height shall not exceed +136.63 NAVD88 (or +138.2 NGVD29). Spires, steeples, stair access ways, antennas, cupolas, chimneys, *flagpoles*, ventilators, tanks, elevator equipment rooms and similar architectural features, mechanical equipment spaces, enclosures for *building* infrastructure and/or limited rooftop outdoor amenity spaces, may collectively occupy no more than 30% of the roof area in the aggregate. Enclosures for *building* infrastructure or mechanical equipment and any other non-habitable spaces shall not exceed 20 feet in height measured from the structural roof. A maximum 200 square feet of enclosed habitable space nor more than 10 feet in height measured from the structural roof may be provided for bathroom facilities serving a rooftop outdoor amenity space. *Structures* open on two or more sides such as trellises or pergolas shall be permitted within any outdoor amenity space provided they do not exceed 10 feet in height measured from the structural roof. All rooftops and elements shall be designed in such a way that said elements meet the spirit and intent of the *Design Guidelines*, do not present a cluttered or drab appearance, and are consistent with the overall aesthetics of the property, as determined by the Planning and Zoning Board as part of Design Review. Rooftop mechanical equipment spaces and limited rooftop outdoor amenity spaces shall be: (1) set back from the perimeter of the roof so

that they are not visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines; or (2) be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance; or (3) be set into the roof structure itself without changing the visible contour of the roof as seen from the street so that no equipment or screening is visible from eye-level from *grade* at any property line, nor discernible from eye-level from *grade* at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements. Rooftop photovoltaic systems may be approved by the Planning and Zoning Board subject to the Design Guidelines provided they do not exceed the height and massing limitations of the underlying district applicable to rooftop mechanical elements.

- Density and intensity in the H120 district shall be calculated based on property westward of the ocean bulkhead line. Notwithstanding anything to the contrary in either the Current Zoning Code or 2006 Zoning Code, the erosion control line shall not be used to determine the lot area, and shall not serve as a basis for density and intensity calculations on a given lot.
- The calculation of lot area shall be limited to the actual acreage within the property lines, or in the case of the H120 district, the actual acreage within the area bounded by north, west, and south property lines and the ocean bulkhead line on the east. The term “gross acreage” shall be deleted and shall have no force or effect. Notwithstanding anything to the contrary in either the Current Zoning Code or the 2006 Zoning Code, an acre is 43,560 square feet.
- All permitted and accessory uses shall be as permitted in the 2006 Zoning Code, except that new hotel or motel uses of any type shall not be permitted except in the historic district. Any use in the commercial district not expressly permitted in the 2006 Code shall not be permitted.
- Awning and canopies shall be regulated as in the Current Zoning Code, except that the Planning and Zoning Board may authorize an awning or canopy without a required break or articulation where a more integrated design would result.
- Except as modified herein, the Town’s existing sign code, landscape code, and existing regulations regarding religious accommodations, reasonable accommodation procedures, curb cuts, vision clearance, aggregation of lots, materials and finishes, underground utilities, architecture, zoning in progress, beach sand quality, design standards for off-street parking, standards for fences, and short-term rentals will be retained.

- Roof decks as defined in the Current Zoning Code shall not be permitted in any single-family district.
- In the H30A district, no building shall be erected within 25 feet of the sea wall on Point Lake, north canal, or south canal, nor within 50 feet of the sea wall on any other body of water.
- Existing single family or duplex driveways in front yards that are nonconforming as to front yard landscape and/or pervious area requirements may be maintained, repaired, or rebuilt with any approved material without needing to comply with the front yard landscape and pervious area requirements. Such driveways can be altered so long as the degree of nonconformity is not enlarged.
- Hedges for single-family lots shall be permitted within front yards of all lots and on secondary front (side street) yards of corner lots, at a height not to exceed six (6) feet as measured from grade.
- Mechanical equipment shall be permitted on any roof in the H30A and H30B districts, subject to the following requirements:
 1. *Setback from roof perimeter.* All equipment and enclosures shall be set back from the roof perimeter so that it is not visible from eye-level view from grade at a distance of 75 feet from any property line of the subject lot. This shall be demonstrated by line-of-sight drawings submitted as part of a zoning approval or design review package.
 2. *Screening.* All equipment shall be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street. In either instance, neither equipment nor screening shall be visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject lot.
 3. The footprint area of the equipment, as defined by the perimeter of the decorative and acoustic screen enclosure, shall not exceed 7.5% of the total area of the roof upon which it is placed.
 4. Rooftop equipment and all screening elements shall not exceed six (6) feet above the roof slab for a flat roof or above the truss for a pitched roof.
 5. Any rooftop mechanical equipment installed prior to the effective date of this ordinance shall meet the requirements of this section for any replacement of equipment.
- All rooftop mechanical equipment in any district shall be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street; and shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject lot.

Neither equipment nor screening shall be visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines.

- Required parking shall not be reduced based on contributions to the Parking Trust Fund.

Pursuant to Section 90-6 of the Code, Zoning in Progress based on the above parameters *shall* apply to applications for development approvals filed after the date of this notice's publication in the Miami Herald. Pending applications may be heard by the appropriate Town board only where they meet the more restrictive of the Current Zoning Code and the 2006 Zoning Code as modified above.

Public hearings for first reading by the Town Commission, review by the Planning and Zoning Board and Local Planning Agency, and second reading by the Town Commission will be noticed and held in the coming weeks. Interested parties may appear at the Public Hearings and be heard with respect to the proposed Ordinance.

Dated this __ day of March, 2022

Sandra McCready, MMC
Town Clerk