

**Chapter 90 ZONING\***

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

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

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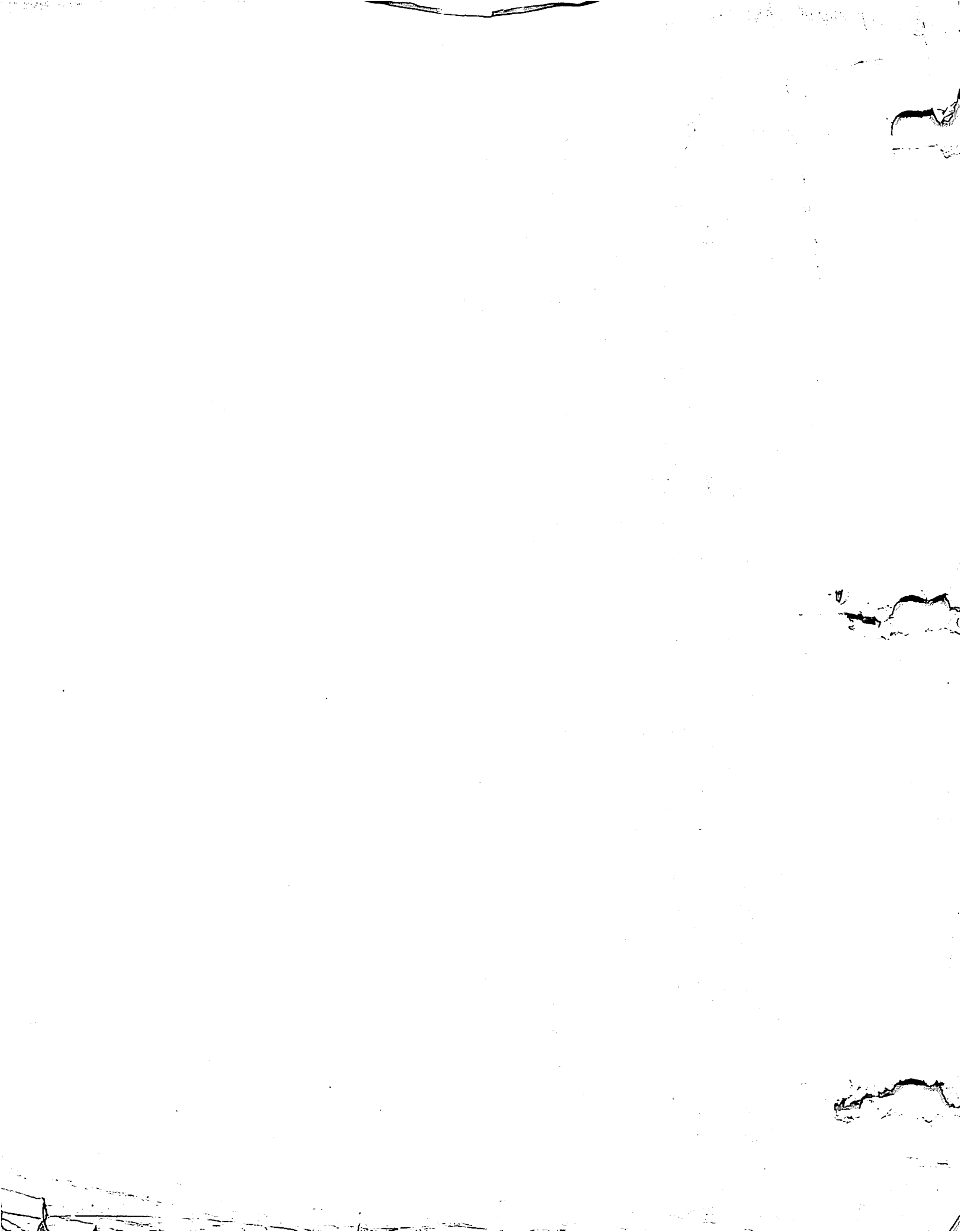
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**ARTICLE I. IN GENERAL****Sec. 90-1. General rules of construction.**

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

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

(Code 1960, § 18-2)

**Sec. 90-2. Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. In particular, floor area includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

(71) *Sign, flashing*, means an illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign for the purpose of these regulations.

(72) *Sign, flat*, means any sign attached to, and erected parallel to the face of, or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 12 inches from the building wall.

(73) *Sign, illuminated*, means any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

(74) *Sign, pole*, means a sign supported by one or more poles and which is wholly or partially independent of a building. Pole shall include post, column, pyramid or other extension from ground level, regardless of the material from which made.

(75) *Sign, pylon*, means a freestanding sign permanently affixed to the ground without the need of posts and/or poles, with a maximum overall height not to exceed five feet above grade.

(76) *Sign, roof*, means any sign which is fastened to or supported by or on the roof of a building. "Roof sign" shall include any which projects above the roofline or parapet wall of a building.

(77) *Site plan* means a drawing illustrating a proposed development of a lot or tract, in accordance with the specifications and requirements set forth in section 90-38.

(78) *Story* means that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it; or, if there be no floor next above it, then the space between such floor and ceiling next above it.

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

(80) *Streetline* means a dividing line between a lot and the adjacent street.

(81) *Structure* means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground; including, but without limiting the generality of the foregoing, signs, backstop for tennis courts, swimming pools, fences, screen enclosures, and pergolas.

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

(83) *Suite-hotel* means a hotel containing one or more suite-hotel rooms as defined below. A minimum of fifteen percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. The building shall not have open exterior walkways providing access to units. Provided that all conditions of this Code are met, a suite-hotel may be a timeshareproperty as defined in F.S. ch. 721.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Cross references:** Definitions generally, § 1-2.

### **Sec. 90-3. Penalty for violation.**

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

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

(Code 1960, § 18-81)

#### **Sec. 90-4. Policy and objectives.**

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

(Code 1960, § 18-1)

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

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

(Code 1960, § 18-80)

#### **Sec. 90-6. Compliance with regulations.**

Except as hereinafter provided:

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-8)

#### **Sec. 90-8. Minimum lot area.**

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

(Code 1960, § 18-9)

#### **Sec. 90-9. Recorded restrictions.**

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

(Code 1960, § 18-10)

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

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

(Code 1960, § 18-11)

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

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

(Code 1960, § 18-12)

#### **Sec. 90-12. Buildings under construction.**

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

(Code 1960, § 18-13)

#### **Sec. 90-13. Outstanding permits.**

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

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

(Code 1960, § 18-14)

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

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

(Code 1960, § 18-15)

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

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

(Code 1960, § 18-16)

**Sec. 90-16. Provision for storm drainage.**

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

(Code 1960, § 18-17)

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

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

(a) The comprehensive plan, as amended, and made in accordance with F.S. ch. 163, and the various maps referred to therein, is hereby adopted as the official comprehensive plan of the town.

(b) All development undertaken by and all actions taken in regard to development orders concerning land covered by the comprehensive plan shall be consistent with such plan. All land development regulations enacted or amended shall be consistent with the comprehensive plan.

(c) Any future land development regulations, amendments to the comprehensive plan, land development code or amendment thereto shall be referred to the town planning and zoning board, acting in the capacity of the local planning agency, for review and recommendation as to the relationship of such proposal to the adopted comprehensive plan. Such recommendation shall be undertaken in accordance with the provisions of F.S. chs. 163 and 166. In all cases where a recommendation is not made within 60 days after referral, the town commission may act upon adoption without such recommendation.

(Code 1960, § 18-92)

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

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

(a) *Permits.* No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a permit therefor from the town manager. Such permit shall require conformity with the provisions of these regulations. When issued, such permit shall be valid for a period of 180 days.

(b) *Preliminary drawings, plot plans, etc.*

(1) All applications for building permits shall be accompanied by drawings and plot plan, in triplicate, showing all dimensions of lot lines, location of all proposed buildings, all yard dimensions, existing and proposed yard grades and first floor elevations.

(2) A survey prepared by a licensed surveyor, showing all dimensions of the plot and dimensions of all existing structures and easements thereon and all existing grades on plot and crown of the road shall be submitted with all applications.

(3) The drawings shall contain suitable notations indicating the use of all land and buildings. A careful record of the original copy of such drawings, plats, survey and applications shall be kept in the offices of the town manager and a duplicate copy shall be kept at the building site at all times during construction.

(4) Submission of preliminary plans and survey, to the building official and the planning and zoning board, for compliance with this chapter may be filed. Applicant shall, with the filing of such request, pay a fee of \$200.00 to defray costs and expenses.



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

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

(Code 1960, § 18-77)

### **Sec. 90-38. Site plan.**

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

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

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

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

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

(Code 1960, § 18-76)

#### **Sec. 90-39. Certificate of occupancy.**

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

(Code 1960, § 18-78)

#### **Sec. 90-40. Changes and amendments.**

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

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

(Code 1960, § 18-79)

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

### **Sec. 90-41. Conditional uses.**

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

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

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

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

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

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

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

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

**DIVISION 2. PLANNING AND ZONING BOARD\***

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

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**Sec. 90-51. Created.**

There is created a town planning and zoning board.

(Code 1960, § 18-32)

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

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

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

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

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

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

(Code 1960, § 18-83)

**Sec. 90-53. Officers.**

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

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

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

#### **Sec. 90-54. Recommendations.**

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

(Code 1960, § 18-85)

#### **Sec. 90-55. Reserved.**

#### **Sec. 90-56. Expenditures; indebtedness.**

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

(Code 1960, § 18-87)

#### **Sec. 90-57. General regulations governing members.**

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

(Code 1960, § 18-88)

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

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

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

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

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

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

**ZONING CHANGE REQUESTED**

for use as

(here insert use)

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

Tuesday Date \_\_\_\_\_

(Yellow background/black letters)

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

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

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

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

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

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

**Sec. 90-59. Review of building permits.**

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

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

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

(Code 1960, § 18-90)

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

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

(Code 1960, § 18-91)

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



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

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

(Code 1960, § 18-61)

**Sec. 90-72. Nonconforming use of land.**

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

(Code 1960, § 18-62)

**Sec. 90-73. Nonconforming use of buildings.**

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

(Code 1960, § 18-63)

**Sec. 90-74. Discontinuance of nonconforming uses.**

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

(Code 1960, § 18-64)

**Sec. 90-74.1. Discontinuance of nonconforming structure.**

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

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

(Ord. No. 1449, § 2, 1-13-04)

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

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

(Code 1960, § 18-65)

**Sec. 90-76. Existence of nonconforming use.**

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

(Code 1960, § 18-66)

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

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

(Code 1960, § 18-67)

**Sec. 90-78. Nonconforming uses not validated.**

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

(Code 1960, § 18-68)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 90-92. Special exceptions.**

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

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

(Code 1960, §§ 18-70, 18-71)

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

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

(Code 1960, § 18-74)

**Sec. 90-94. Special use permits.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) *Procedures regarding special use permits.*

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-75)

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



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

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

(1) In the event applicant:

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

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

(2) In the event applicant:

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

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

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

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

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

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

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

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

(1) In the event applicant:

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

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

(2) In the event applicant:

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

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

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

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

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

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

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

(Ord. No. 1428, § 1, 6-11-02)

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

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

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

TABLE INSET:

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

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

**Sec. 90-122. Identification of district maps.**

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

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

**Sec. 90-123. Interpretation of district boundaries.**

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

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

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

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

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

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

(Code 1960, § 18-6)

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

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

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

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

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

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

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

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

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

(2) Public parks and playgrounds.

(c) *Permitted accessory uses.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Public parks and playgrounds.

(c) *Permitted accessory uses.*

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-19)

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

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

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

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

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



family residential districts.

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

(Code 1960, § 18-20)

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

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

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

(1) Any use permitted in the RD-1 two-family residential district.

(2) Multiple-family dwellings.

(3) Motels.

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

(c) *Permitted accessory uses.*

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

(2) An office containing an area of not more than two percent of the gross floor area of the building for administration of rental units in a building containing ten or more living units.

(3) Lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.

(4) A laundry room for the use of residents and guests of a multiple-family dwelling. Coin-operated laundry machines may be utilized.

(5) Coin-operated vending machines such as for candy, tobacco, ice, soft drinks and sundries inside a building containing ten or more living units or guest rooms.

(6) Off-street parking and loading facilities.

(7) Swimming pools, cabanas and game courts for the use of guests of the hotel, motel or residential development.

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

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

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

Sec. 90-150. Reserved.

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

Table.

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

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

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

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

(2) Private clubs.

(3) Hotels and motels.

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

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

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

(c) *Permitted accessory uses.*

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

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

(3) Off-street parking and loading facilities.

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

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

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

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

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

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

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

(1) Art agencies:

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

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

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

(3) Barbershops.

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

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

(6) Clothing stores and services:

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

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

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

(7) Department stores.

(8) Entertainment:

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

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

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

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

(11) General or special merchandise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. No. 1423, § 2, 9-11-01)

### **Sec. 90-154. MU municipal use district.**

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

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

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

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

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

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

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

(6) Accessory uses for the above uses.

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

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



uses as designated in this chapter.

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

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

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

(Code 1960, § 18-26)

**Sec. 90-155. District regulations tables.**

TABLE I1

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

TABLE INSET:

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

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

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

1 A dash (-) indicates no applicable regulation.

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

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

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

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

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

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

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

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

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

TABLE INSET:

--	--

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

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

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



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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Unit size minimum floor area shall be:

**TABLE INSET:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-30)

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

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

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

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

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

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

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

### **Sec. 90-181. Vision clearance.**

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

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

point of intersection, of the intersecting lot lines.

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

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

### **Sec. 90-182. Accessory buildings and structures.**

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

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

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

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

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

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

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

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

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

### **Sec. 90-184. Marine structures.**

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

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

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

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

(Code 1960, § 18-35)

### **Sec. 90-185. Carport canopies.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-37)

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

(Code 1960, § 18-39)

### **Sec. 90-189. Outdoor lighting.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-41)

#### **Sec. 90-191. Combined lots.**

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

(Code 1960, § 18-42)

#### **Sec. 90-192. Boat storage.**

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

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

(Code 1960, § 18-43)

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

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

(Code 1960, § 18-44)

### **Sec. 90-194. Landscaping requirements.**

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

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

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

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

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

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

TABLE INSET:

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

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

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

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

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

(Ord. No. 1434, § 1, 11-12-02)

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



**Sec. 90-196. Emergency power generators.**

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

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

(Ord. No. 1462, § 1, 9-12-06)

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

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

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

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

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

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

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

**Sec. 90-207. Prohibited signs.**

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

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

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

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

(Code 1960, § 18-47)

### **Sec. 90-208. Temporary signs.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-48)

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

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

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

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

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

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

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

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

(1) *Area.*

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

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

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

a. Trade name of establishment.

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

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

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

a. Any reference to rates.

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

(4) *Miscellaneous.*

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

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

(5) *Location.*

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

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

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

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

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

(1) *Area.*

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

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

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

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

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

(4) *Miscellaneous.*

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

(5) *Location.*

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

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

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

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

(6) *Window signs.*

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

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

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

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

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

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



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

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

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

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

## **Sec. 90-210. Sign construction and illumination.**

### **(a) Construction.**

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

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

### **(b) Illumination.**

#### **(1) General requirements.**

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

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

#### **(2) Special requirements.**

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

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

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

(Code 1960, § 18-50)

### **Sec. 90-211. Nonconforming signs.**

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

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

(Code 1960, § 18-51)

### **Sec. 90-212. Sign permits.**

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

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

(1) Name, address and telephone number of the sign owner and of the sign erector.

(2) Drawings showing the design, including the size, height, copy, or type of copy if changeable copy type sign, location on the lot and materials to be used for the sign, as well as structural details of each sign and its supporting structure and the method of lighting proposed.

(3) Statement indicating the purpose of the sign.

(4) The size, dimensions, lighting and location of all signs existing on the premises at the time of making said application.

(5) Any other pertinent information as required by the town manager to insure compliance with these regulations.

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

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

(Code 1960, § 18-52)

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

**DIVISION 3. OFF-STREET PARKING**

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

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

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

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

TABLE INSET:

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

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

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

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

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

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

### **Sec. 90-227. Interpretation of these requirements.**

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

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

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

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

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

(Code 1960, § 18-54)

### **Sec. 90-228. Restricted and prohibited parking.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1960, § 18-56)

#### **Sec. 90-230. Design standards.**

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

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

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

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

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

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

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

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

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

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

**DIVISION 4. OFF-STREET LOADING****Sec. 90-241. Off-street loading requirements.**

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

## TABLE INSET:

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

(Code 1960, § 18-58)

**Sec. 90-242. Interpretation of the chart.**

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

(Code 1960, § 18-59)

**Sec. 90-243. Design standards.**

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

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

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

(Code 1960, § 18-60)