

**Town of Surfside
Town Commission Meeting
June 8, 2010
7 p.m.**

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

AGENDA

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**
- D. Mayor and Commission Remarks – Mayor Daniel Dietch**
- E. Agenda and Order of Business (Additions, Deletions)**
- F. Special Presentations**
 - 1. Miami Beach Senior High School Exemplary Student Recognition, Alexander Rennert**
 - 2. Nautilus Jr High School Exemplary Student Recognition – Cora Coleman**
 - 3. The Honorable County Commissioner, Sally A. Heyman**
 - 4. Census Update, Barbara Cohen**
 - 5. Downtown Beautification Improvements, Fernando Rodriguez, Director of Public Works**
- G. Community Notes – Mayor Daniel Dietch**
- H. Community Center Update– Calvin, Giordano & Associates, Inc.**

2. Quasi-Judicial Hearings

3. Consent Agenda

All items on the consent agenda are considered routine by the Town Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event, the item will be moved to the main agenda under the appropriate heading for consideration.

Recommended Motion: To approve all consent agenda items as presented below.

- A. Minutes – Town Commission Workshop May 5, 2010**
- B. Monthly Budget to Actual Summary - Martin Sherwood, Finance Support Services Department Head**
- C. Projects Progress Report – Calvin, Giordano & Associates, Inc.**

4. Ordinances and Public Hearings

A. Second Readings (Ordinances)

1. Landscape Ordinance – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” AND SPECIFICALLY ARTICLE VIII “LANDSCAPE REQUIREMENTS”; AMENDING SECTIONS 90-92, 90-94 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

[This ordinance exempts the SD-B40 from the recent increase in landscaping requirements in order to avoid making every property in the district non-conforming.]

2. Base Flood Level Elevations – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SUBSECTIONS (1) AND (2) OF SECTION 42-92 “SPECIFIC STANDARDS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES RELATED TO BASE FLOOD LEVEL ELEVATIONS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

[This ordinance changes the definition of substantial improvement relating to the 50% rule.]

B. First Readings (Public Hearings on Ordinances)

1. Re-adoption of Zoning Code (Ordinance 08-1491) Lynn Dannheisser, Town Attorney

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

[This ordinance re-adopts 2008 ordinance plus all changes to date]

2. Proposed Franchise Agreement Renewal-Florida Power & Light – Martin Sherwood, Finance Support Services Department Head
AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF SURFSIDE, AND PROVIDING FOR AN EFFECTIVE DATE.

[This ordinance approves a thirty year non exclusive franchise Agreement with FP & L]

3. Parking Trust – Lynn Dannheisser, Town Attorney
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING,” ARTICLE VII “OFF-STREET PARKING AND LOADING,” DIVISION 1 “OFF-STREET PARKING,” SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES REGARDING OFF-STREET PARKING COMPLIANCE FOR THE SD-B40 ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

[This ordinance provides an alternate means to comply with off-street parking requirements in the downtown business district by payment of a mitigation fee into a parking trust fund.]

5. Resolutions and Proclamations

A. Appointing Planning and Zoning Board – Lynn Dannheisser, Town Attorney
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPOINTING MEMBERS OF THE PLANNING AND ZONING BOARD; PROVIDING FOR IMPLEMENTATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

B. Solar Lights/Handicap Ramps/Pads Construction on Harding Avenue – Fernando Rodriguez, Director of Public Works
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE CONSTRUCTION OF SOLAR LIGHTS, HANDICAP RAMPS AND PADS ALONG HARDING AVENUE, AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL PURCHASE ORDERS OR OTHER REQUIRED DOCUMENTATION; AUTHORIZING THE FUNDING FROM THE CAPITAL PROJECTS FUND; AND PROVIDING FOR AN EFFECTIVE DATE.

C. Retention of Genovese, Joblove & Battista, P.A. for Special Assessment Liens –
Lynn Dannheisser, Town Attorney

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF
SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GENOVESE
JOBLOVE & BATTISTA, P.A. TO ASSIST THE TOWN OF SURFSIDE WITH
THE COLLECTION OF VARIOUS SPECIAL ASSESSMENT LIENS;
PROVIDING FOR AN EFFECTIVE DATE.**

D. Proposed Mid-Year Budget Amendment Resolution – Martin Sherwood, Finance
Support Services Department Head

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF
SURFSIDE, FLORIDA, AMENDING THE ANNUAL APPROPRIATIONS
RESOLUTIONS ADOPTED FOR THE FISCAL YEAR OCTOBER 1, 2009 TO
SEPTEMBER 30, 2010; FOR THE PURPOSE OF AMENDING THE CURRENT
YEAR'S GENERAL FUND BUDGET DOWNWARD AND CAPITAL PROJECTS
FUND UPWARD; AND OTHER BUDGETARY ADJUSTMENTS REQUIRED TO
THE FISCAL YEAR ENDED SEPTEMBER 30, 2010 BUDGET; PROVIDING
FOR AN EFFECTIVE DATE.**

6. Good and Welfare

Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.

7. Town Manager and Town Attorney Reports

A. Town Manager Report

B. Town Attorney Report

C. Schedule R. Meyers, Executive Director, Commission On Ethics for lecture on
Sunshine Public Records and Records

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

A. Status of report on the Lily Pad and Carlisle – Commissioner Marta Olchyk

B. Beach Walk – Commissioner Marta Olchyk

C. Surfside Color Guard Participation in Military Funerals – Vice Mayor Joe Graubart

D. Short Term Rentals – Vice Mayor Joe Graubart

E. Sharing Municipal Services - Commissioner Kopelman

F. Downtown Revitalization – Mayor Daniel Dietch

G. Committee Appointments – Mayor and Town Commission

H. FEMA – Code Enforcement – Vice Mayor Joe Graubart

I. Website Adhoc Committee - Mayor Daniel Dietch

J. Code Enforcement Committee – Mayor Daniel Dietch

10. Adjournment

Respectfully submitted,



Gary L. Word,
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

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

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

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



Town of Surfside Commission Communication

Agenda Item # 1F5

Agenda Date: June 8, 2010

Subject: PROPOSED BEAUTIFICATION IMPROVEMENTS / DOWNTOWN

Background: At the February 10th Commission Meeting, the Beautification Committee (BC) proposed a "first layer" of beautification improvements for the downtown business district. The plan aims at improving the current landscaping of the Harding Avenue corridor by adding color and variety to the sidewalk sections located between the landscaped planters. This first step was completed in May, and involved the installation of 31 hanging baskets with purple and pink *Bougainvillea* plants on 16 light posts along Harding Avenue.

The BC is proposing, as a second layer of improvements, the replacement of 16 very thin palm trees along Harding with *Jamaican Caper* bushes, a deep green species with a white-pink flower that typically blooms during the spring-summer time frame. A summary of the recommendation by the landscape architect consulted (on a pro bono basis) and additional information about the Jamaican Caper are provided in Attachments A1-A3. Although this project was proposed to the Commission in February, approval was delayed pending the presentation of a rendition showing what the Jamaican Caper plantings would look like when installed. This rendition is provided in Attachment B. The BC canvassed a number of business owners along Harding to solicit input regarding this proposed landscaping change. A summary of their responses is provided in Attachment C.

Analysis:

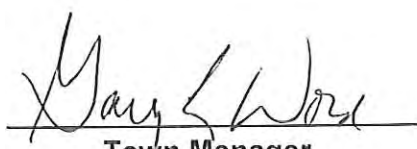
As summarized in Attachments A2 and A3, this native plant is hardy (nearly drought resistant), requires minimal pruning, and is not very susceptible to major pests or diseases. The Capers will be strategically planted but equally distributed (four per block on the east and west sides) along the avenue. As shown in Attachment B, the Jamaican Capers would be approximately five feet in height and roughly encompass the width of the square planters

Budget Impact: The total cost of this project is estimated at roughly \$5,720 (cost breakdown provided in Attachment D). This project is NOT budgeted for the current fiscal year. However, as agreed upon at the February Commission Meeting, funds from the Parking Fund will be used to pay for the project.

Staff Impact: None

Recommendation: It is recommended that the BC's proposed beautification improvement project be approved by the Town Commission with the understanding that this project will be funded by the Parking Fund.


Raymond Rodriguez
Department Head


Gary L. Wore
Town Manager



CURTIS

+

ROGERS

DESIGN

STUDIO

INC.

*Landscape
Architecture*

3250

MARY

STREET

SUITE

301

COCONUT

GROVE

FLORIDA

33133

TELEPHONE

305-442-1774

FACSIMILE

305-445-9488

LIC LC 000241

www.curtisrogers.com

May 18, 2010

Mr. David Steinfeld
David Steinfeld | Senior Associate | LEED AP
CB Richard Ellis | Brokerage Services
777 Brickell Avenue, Suite 900 | Miami, FL 33131

Re: Surfside Streetscape
Recommendations

Dear David:

It was very nice meeting with you and Fernando Rodriguez in the downtown area of Surfside. After speaking with you and looking at the existing streetscape I would like to make the following recommendations:

We would suggest planting a large shrub with an installed size of 4-5' in height and 2-3' in spread. One shrub which would work quite well in this environment is Jamaica Caper, *Capparis cynophallophora*. This is a native shrub adapted to coastal areas and can tolerate full sun and partial shade. You can see the blooms (below), which are also fragrant in the evening. It is easy to maintain, probably some very light pruning to shape it so that it doesn't grow into pedestrian traffic, but this will not be very often (at the most twice a year, but more than likely once per year). These are available field grown at several nurseries and for this size plant; the cost installed should be around \$200 each. You should make sure to dig out the existing soil in the planting cutouts to a minimum depth of 24-30" and put new planting soil (60% sand/40% muck) in with the new planting.



Please let me know if you have any questions.

Sincerely,

Jean C. Lee
Principal



- It is sturdy and can take being planted along highways.
- It would be lovely in a spot that gets foot traffic in the evening to take advantage of the fragrance of its flower
- The Jamaica caper has no major pests or diseases.
- Examples can be found of this readily available plant in the Key West Garden Club's facilities at West Martello.

Source:Plant Creations.Com –Located in Homestead

- Natives for your Neighborhood-An Innovative Conservation Resource for South Florida



JAMAICAN CAPER

Salt Wind Tolerance:

High; can tolerate moderate amounts of salt wind without injury.

Drought Tolerance:

High; does not require any supplemental water once established.

Light Requirements:

Full sun to light shade.

Flower Color:

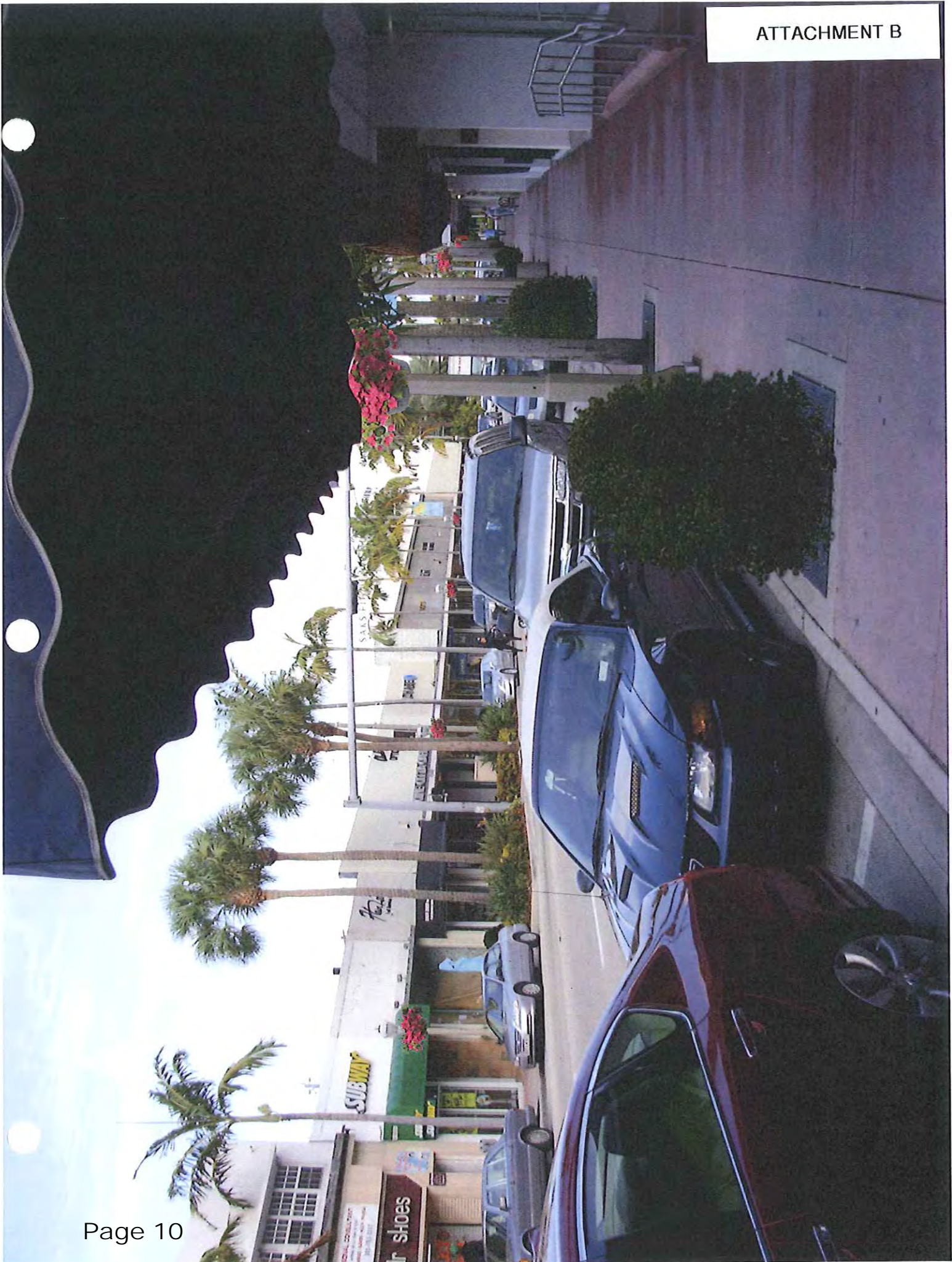
Opens white, turning pink within a few hours.

Flower Characteristics:

Showy, brushlike, 1 1/2" long. Fragrant, mostly so in the evening.

Flowering Season:

Spring-summer; peak in spring.





Town of Surfside
Commission Quasi-judicial & Committee Workshop
May 5, 2010 - 7:00 pm
Commission Chambers - 9293 Harding Ave, 2nd Fl
Surfside, FL 33154

MINUTES

1. Opening

A. Call to Order

Mayor Daniel Dietch called the meeting to order at 7 p.m.

B. Roll Call of Members

Town Clerk, Debra Eastman called the roll with Commissioner Michael Karukin, Commissioner Edward Kopelman, Vice Mayor Joe Graubart and Mayor Daniel Dietch in attendance. Commissioner Marta Olchyk was absent.

C. Pledge of Allegiance

Town Clerk, Debra Eastman led the pledge of allegiance.

D. Public Comments

There were no public comments.

- 2. Quasi-judicial vs. Legislative Process** – Lynn Dannheisser, Town Attorney
Town Attorney, Lynn Dannheisser gave a presentation regarding quasi-judicial procedures (attachment A). Mayor Daniel Dietch thanked the Town Attorney for her presentation and called for a brief break at 7:53 p.m. The meeting resumed at 8 p.m.

3. Committees

A. Value of Current Committees

Mayor Daniel Dietch suggested that the current committees be reviewed, suggested preparation for the possible enactment of a Community Development Committee and also consideration to reinstitute the Education Committee. Mayor Daniel Dietch offered to frame out the Community Development Committee and report back to the Commission. Mayor Dietch suggested retaining the two resident members of the Pension Board.

B. Committee Rules and Procedures

C. Potential Changes to Committees/Boards

After discussion regarding the current committees and members, the Commission requested that the Town Clerk contact the current committee members as to their willingness to continue to serve.

D. Committees/Boards Staff Support

Mayor Daniel Dietch reminded that the Commission needs to be mindful of the cost of staff in terms of committees and the support that is required. Mayor Dietch asked

for volunteers as a liaison to committees. The Commissioners volunteered as follows: Commissioner Michael Karukin liaison to Tourist Board, Commissioner Edward Kopelman liaison to Parks and Recreation, Mayor Daniel Dietch to Personnel Appeals Board, Vice Mayor Joe Graubart offered to work with schools as a liaison.

E. Resolution – Appointment of Members to P&Z Board
Mayor Daniel Dietch reminded the Commission that the appointment of members to the Planning and Zoning Board and Design Review Board will be on the agenda for the May Regular Commission Meeting.

Mayor Daniel Dietch explained the upcoming Team Building session and the two part process of individual interviews and the group session.

4. Adjournment The meeting adjourned at 9:35 p.m.

Accepted this ____ day of ____, 2010.

Daniel Dietch, Mayor


Attest:

Debra E. Eastman, MMC
Town Clerk

Town of Surfside

TOWN COMMISSION
Workshop – Quasi-Judicial
Procedures

May 5, 2010



Town Planning and Zoning Board

- Created by Town Code
- Designated Local Planning Agency (LPA) by Florida Statutes Section 163.3174
- Oversees Comprehensive Plan & Recommends Growth Management Policies

Town Commission

- Ensure Zoning Code is CONSISTENT with Comprehensive Plan
- Implement Land Development or Zoning Code Thru Approval or Recommendation of Development Orders Consistent with the Comprehensive Plan (Variances, Conditional Uses, Site Plan Approvals, etc.)

Comprehensive Plan

- Preserve, promote, protect and improve the public health safety, comfort, good order, appearance, convenience, law enforcement, fire prevention and general welfare.
- Contains Goals, Objectives, and Policies.
- Contains Supporting Data and Analysis.
- Growth Management's "Constitution."

Comprehensive Plan Elements

- Future Land Use
- Traffic Circulation
- Sanitary Sewer, Solid Waste, Drainage, Potable Water & Natural Groundwater Recharge
- Conservation
- Recreation & Open Space
- Housing
- Coastal Management
- Capital Improvements
- Public School Facilities
- Intergovernmental Coordination

Land Development Code

- LCD or Zoning Code is the Town's zoning and land use ordinances (laws)
- All changes to the Land Development Code require review and comment by the Local Planning Agency.
- All changes to the Land Development Code are enacted by ordinance, after advertising by the Town Clerk and the conduct of two public hearings by the Town of Surfside Commission.

Land Development Orders

- Land Development Orders are final approvals or permits and shall be CONSISTENT with the adopted comprehensive plan.

CONSISTENCY: Internal and External

- The Comprehensive Plan must be internally consistent.
- The Land Development Code must be consistent with the Comprehensive Plan.
- Development Orders must be consistent with the Land Development Code and Comprehensive Plan.

The Decision

Legislative
or
Quasi Judicial

Legislative- It is legislative if the action:

- Sets policy (and is not a specific approval on a specific site)
- Affects the Town at large (not just a single property or its immediate surrounding area)
- Examples:
 - Adopting or amending the Comprehensive Plan
 - Adopting or amending Land Development Regulations (zoning regulations)

In order to uphold the Legislative Decision of the Commission, courts ask: Is the decision "Fairly Debatable?"

- There must be a reasonable basis to support the action
- The fairly debatable standard is a very deferential standard
- If there is any health safety or welfare issue being addressed by the action it will be fairly debatable thus the "Whereas" clauses in proposed ordinance and report

Judicial Review of Legislative Decisions

A Court cannot and will not second guess the wisdom of the legislative body's policy choice and will affirm if there is supporting evidence in the record.

Examples: creating height or other zoning restriction, imposing impact fees if they are assessed fairly and equitably, creating districts for commercial vs. residential uses

Exceptions

- When there is a constitutional right that must be protected such as free speech (i.e. Town must provide a zone for adult entertainment establishments- cannot ban altogether) or freedom of religion (town must allow places of public assembly and worship subject to reasonable zoning regulations)
- There, the courts will impose their judgment and not to defer necessarily to the local government

Quasi-Judicial Decision-Making

These are decisions that:

- Execute, Apply, or Implement Legislative (Policy) Decisions
- Affect Individual Parcels; are not decisions of general application
- Examples:
 - Re-zonings, variance requests, approvals of plats, conditional uses, issuance of building permits, site plan approvals.

The Quasi-Judicial Decision on Appeal: Three Questions a Court Considers

- Were the parties afforded procedural due process in the quasi-judicial decision?
- Did the quasi-judicial body observe the essential requirements of law?
- Did the quasi-judicial body base its decision on competent and substantial evidence?
- **Question is NOT whether the decision was fairly debatable.**

Quasi-Judicial Hearing must demonstrate certain Basic Legal Requirements were met

- Notice
- Hearing Before a Neutral Decision Maker
- Presentation of Evidence by the Petitioner
- Sworn Testimony
- Questioning of Witnesses was allowed
- Witnesses were Provided an Opportunity to Speak
- Criteria was applied
- Record was kept

Quasi-Judicial Hearing Basic Hearing Decorum

- The Petitioner and Witnesses Should be Treated With Respect and Dignity.
- The Petitioner and Witnesses SHOULD NOT be Interrupted During their Comments/Presentation.
- Written Testimony, Media, or Electronic Evidence Must be Accepted into the Record and May be Summarized During the Presentation.
- Town Attorney may assert some control to ensure due process

Quasi-Judicial Hearing Basic Hearing Decorum

- All Requests to Speak Should be with Permission of the Chair
- Argumentative Exchanges Between Board Members, Staff, the Petitioner and/or Witnesses is Prohibited.
- Board Members Should not Interrupt One Another Nor Address Witnesses, the Petitioner or Staff, When Being Questioned by Another Board Member Unless Permitted by the Chair

Quasi-Judicial Hearing

- All ex parte communication must be disclosed in the hearing process
- What is Ex Parte Communication?
 - Occurs outside the public hearing
 - One sided (opposition or support) talks to impartial decision maker
 - The other side does not have an opportunity to respond
 - Can be in any form – written, verbal, electronic, etc.
- Opponents must have an opportunity to respond

The Quasi-Judicial Decision

MUST BE BASED ON:

“Competent and Substantial Evidence”

Evidence a reasonable mind would accept as adequate to support a conclusion

Quasi-Judicial Decision: Substantial Competent Evidence

- Official Town records (charter, codes, ordinances)
- Expert testimony
- Application materials submitted by the applicant
- All staff reports

Quasi-Judicial Decision: Substantial Competent Evidence

- Actions previously taken by other reviewing boards
- Pictures, photographs if authenticated
- Fact Based Citizen Testimony
 - Substantial Competent Evidence from lay witnesses – Citizens – must be "fact based"
 - Subjective preferences are not fact based and do not constitute Substantial Competent Evidence

Appellate Review

- Most Planning and Zoning Board decisions are only recommendations
- Town Commission decisions are final

If only a RECOMMENDATION, another quasi-judicial hearing will be conducted by the Town Commission who will make a final decision. A final decision by the Town Commission is appealed to the circuit court.

Questions?

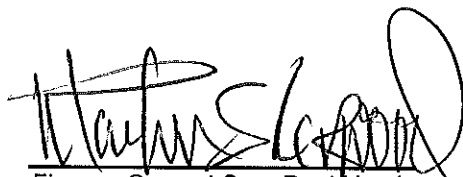
THE END

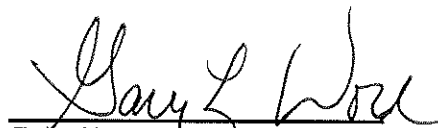
TOWN OF SURFSIDE, FLORIDA
MONTHLY BUDGET TO ACTUAL EXPENSE SUMMARY
FISCAL YEAR 2009/2010
As of March 30, 2010
50% OF YEAR EXPIRED (BENCHMARK)

Agenda Item #

Agenda Date: June 8, 2010

	ACTUAL EXPENSES	ANNUAL BUDGETED EXPENSES	% BUDGET
GOVERNMENTAL FUNDS:			
GENERAL FUND	\$6,471,616	\$13,074,845	50%
RESORT TAX	\$92,137	\$134,000	69%
POLICE FORFEITURE/CONFISCATION	\$31,675	\$73,250	43%
TRANSPORTATION SURTAX	\$44,067	\$223,261	20%
CAPITAL PROJECTS	\$122,882	\$5,035,000	2%
ENTERPRISE FUNDS:			
WATER & SEWER	\$985,753	\$4,850,096	20%
MUNICIPAL PARKING	\$113,248	\$2,097,100	5%
SOLID WASTE	\$526,676	\$1,282,304	41%
STORMWATER	\$55,481	\$246,000	23%


 Finance Support Svcs Dept Head


 Town Manager



TOWN OF SURFSIDE

9293 Harding Avenue
Municipal Building
9293 Harding Avenue
Surfside, Florida 33154
(305) 861-4863
(305) 861-1302

Daniel Dietch
Mayor

Joe Graubart
Vice Mayor

Marta Olchyk
Commissioner

Michael Karukin
Commissioner

Edward Kopelman
Commissioner

Gary Word
Town Manager

TOWN OF SURFSIDE PROJECTS PROGRESS REPORT June, 2010

1. **Community Center** – The Architect has responded to the most recent request from the State on April 30, and we continue to follow up with the State. The contractor installed the test piles on May 06, 2010 under the supervision of a pile inspector and testing laboratory. The samples taken will be broken on 7, 14, and 28 days. After the concrete passes the break test we will conduct the load test. The Contractor's submittals continue to be submitted, reviewed and approved or denied.
2. **Planning and Community Development** – Staff has worked on proposed landscape code changing the requirements of the business district so that the existing structures are conforming. The Planning Department will discuss Design Review requirements with the new Design Review Board at their May meeting. There are two items on that agenda for their review. Staff continues to answer general zoning calls and emails from the public. Staff is also in the process of responding to numerous public records requests.
3. **Website, Information Technology, TV Broadcasts** - IT has been involved in preparing laptops for emergency situations (disaster / post disaster) in preparation for hurricane season. IT continues to provide support for SunGard HTE system. SunGard is the system currently used for Finance, Utility Billing, Permits, etc. VPN (Virtual Private Network) has been installed, configured and tested on the laptops. VPN provides secure access and connectivity to SunGard HTE from outside the network during post disaster. IT is currently working on phones for the elevator and voicemail for Parks and Rec. In addition, IT continues to support the Town with general IT support (i.e., printers, cell phone connectivity, email distribution devices, public records requests, website updates, document conversion for website, broadcasting / rebroadcasting meeting, updating channel 77 with new events, network management and Town analog phone support).
4. **Public Utilities / Engineering** –

Bay Drive Drainage Improvements

The Bay Drive Drainage Improvements are part of the Florida Department of Environmental Protection grant that included stormwater pumps and drainage wells. This project is scheduled for construction contemporaneously with the proposed water main replacement and the sanitary sewer renovation. Since

this work will occur simultaneously, the impacts to the roadways and the neighborhoods will be kept to a minimum.

As discussed previously the installation of conduit for future Florida Power and Light undergrounding is considerably expensive, as well as legally encumbering to the property owners and the Town. For instance, Florida Power and Light requires a 10 ft contiguous and exclusive easement outside the right of way - without landscaping, walls or other improvements to accommodate the underground conduit. The strict easement requirements linked with the high individual connection costs is considered prohibitive.

Florida Department of Environmental Protection Stormwater Project

The Florida Department of Environmental Protection project consists of three below grade pump stations, 9 drainage wells, drainage structures, and stormwater collection system to improve both the water quality and quantity before discharging into the Biscayne Bay. The following items are complete:

Task 1: Surveying

Task 2: Engineering Design and Permitting (A Florida Department of Environmental Protection application is required by the contractor, however they have approved the plans)

Task 6: Grant Administration – in process

Task 7: Education – Required for the duration of the project

The Stormwater projects will require several phases to complete to coincide with the grant schedule and other funding sources. Construction of water mains, sanitary sewer and the undergrounding of cable and phone lines should also coincide with the stormwater sewer phases to reduce pavement restoration costs.

Stormwater Master Maintenance

The contractor has cleaned the Town's catch basins and stormwater collection system and the pipes. A community-wide atlas showing each of the improvements, condition and recommendations will be needed to maintain the system on a yearly basis as required by the National Pollution Discharge Elimination System Permit. Repairs and replacement program will coincide with the Florida Department of Environmental Protection Stormwater project and grants will augment the CIP as necessary. The annual National Pollution Discharge Elimination System reports need to be submitted with Miami Dade County as a Co-Permittee.

Wastewater System

The Surfside sanitary sewer meters were found to be reading high and were calibrated. The acceptance Miami Beach invoice will be finalized after receipt of the Town's sewer meter readings. Miami Beach has installed two dedicated Sewer Meters consistent with the tri-party agreement with Miami Beach, Bal Harbor and the Town of Surfside. Currently, four months of daily readings have been obtained and analyzed.

The design for wastewater improvements, including the sanitary sewer pump station replacements, sewer lining and repairs are currently being evaluated for implementation.

Costs and unit prices are being established for lining the moderately cracked pipes and point repairs for the broken pipes. Bidding of the repairs is expected this year for lining the existing sanitary lines and manholes. Calvin Giordano and Associates is currently coordinating with the Florida Department of Transportation and their engineering consultant to determine Harding and Collins overlay impacts to sanitary sewer lining/replacement. Plans (60%) were received from their consultant on March 1, 2010. Construction is scheduled for July of 2010.

The Miami Dade Environmental Resource Management Peak Flow Study was submitted February 4, 2010. The purpose of the study demonstrates the compliance with the current law, codes and Consent Decree.

The 2009 through 2010 Annual Sanitary Sewer System Evaluation and Rehabilitation Report was submitted to the County by Calvin Giordano and Associates on March 26, 2010. This is a yearly report required by the county in order to identify that the Town has been actively maintaining, repairing, restoring and/or replacing the sanitary sewer system. The report was favorable in the Town's behalf since the sewer system was cleaned and videoed in 2009 and a lining/replacement program is schedule for 2010.

Water System

The water main replacement contract documents are complete with permitting in process. Advertisement, bid, award and replacement of the aging system are funded; however, the County has released the \$829,000 General Obligation Bond. The project was scheduled to start by the end of 2009; however, the funding delay and additional sewer work will require postponement until mid 2010.

Calvin Giordano and Associates is currently coordinating with the Florida Department of Transportation and their consultant to determine Harding and Collins overlay impacts to water main replacement. It is anticipated that 4 water main taps will need to occur on Harding prior to the Florida Department of Transportation overlay work is done. Plans (60%) were received from Florida Department of Transportation's consultant on March 1, 2010. Construction is scheduled for June of 2010.

Florida Department of Transportation Local Agency Program

The Florida Department of Transportation Local Agency Program Project was bid and the bids were received on March 20, 2010. The project includes the replacement of handicap ramps, bus stop pads and solar lights along 92nd Street between Harding and Collins Avenue. Calvin, Giordano and Associates, Inc. has reviewed the bids and forwarded them to the Florida Department of Transportation for review. The project is scheduled to be awarded to Horsepower Electric who had the lowest qualifying bid. The bid came in at \$139,027 and the city will be reimbursed for the cost of the project by the American Recovery and Reinvestment Act program. The original bid came in higher than anticipated and exceeded the program funding. Some of the scope of the project was eliminated so that the Town's costs would be 100% reimbursed by the program.

5. **Transportation and Traffic Engineering**

- a. In regard with the applicant of the “Shul of Bal Harbor”, the requested AM and PM peak hour traffic queuing analysis has not been received. Study shall take all gate specifications into consideration, such as opening/closing time.

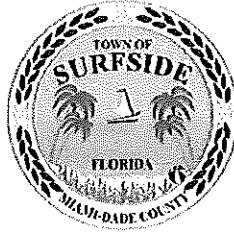
6. **Parks** - State staff recommended that Surfside create a Town Recreational Trail map

- a. Identifying all the points of public access to Indian Creek and the Atlantic Ocean, and identify all public parks and green spaces within the Town, including all parks within a 3-mile radius. Staff is currently working with the Miami-Dade Parks and Recreation staff, and the Metropolitan Planning Organization to request that the trail be adopted by the Miami-Dade County Commission.

7. **Grants** -

- a. The FY 2010 an application for the Department of Environmental Protection Section 319 Non-point Source Management Program Grant will be submitted by May 23, 2010 for the stormwater improvements.
- b. Grants for sanitary and water system improvements, as well as roadway improvements and other Town improvements are being reviewed as possible revenue sources to accomplish the projects.

8. **Capital Improvement Projects** - Calvin Giordano has provided the town with a list of concerns regarding safety issues and American Disability Act access for several Beach Walk Access points in the Capital Improvement Projects reports. Upon request by The Town, the Landscape Architecture Department will provide detailed plans to address these deficient areas.



Town of Surfside Commission Communication

Agenda Item # 4A1

Agenda Date: April 13, 2010

Subject: Landscape Ordinance

Background: It has come to Staff's attention that the landscape ordinance requires additional landscape buffers than what is currently present within the business district. Therefore if a property owner were to redevelop a site within the business district, larger setbacks and buffers may be required. The code currently requires buffers adjacent to streets and neighboring properties when a different zoning category is present. Staff is proposing an Ordinance that does not affect properties that are contiguous to a lot in the business district, but would exempt lots that are separated by a street or alley from providing buffers.

For example, if a lot abuts a single family home (not separated by a street) then that side of the lot would need to provide a twenty (20) foot landscaped buffer. If the lot was surrounded on the remaining sides by a street, they would not need to provide landscape buffers. There are still landscaping requirements, such as shrubs and trees, which need to be provided on site, however, the proposed code removes the required buffer and provides the owner with flexibility as to where the landscaping should be located.

Budget Impact: Planning Staff's time was funded under the general services contract between the Town and CGA. Therefore the Town did not incur an additional budget impact for CGA's time.

Staff Impact: N/A

Recommendation It is recommended that the Surfside Town Commission introduce on first reading the attached Ordinance, amending section 90.92, 90.94 and 90.95 of the Town of Surfside Zoning Code.

Department Head

Town Manager

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" AND SPECIFICALLY ARTICLE VIII "LANDSCAPE REQUIREMENTS"; AMENDING SECTIONS 90-92, 90-94, 90-95 OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to address landscape requirements; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the landscape regulations on April 29, 2010 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on April 13, 2010 having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on May 11, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Ordinance No. _____

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby

amended as follows:

Section 90-92. Landscape buffer areas between residential and nonresidential properties and vehicular use areas.

(a) *Applicability:* All proposed development or redevelopment sites and vehicular use areas serving H30C, H40, H120, ~~SD-B40~~ or municipal uses shall conform to the minimum landscaping requirements hereinafter provided. Interior parking landscape requirements under or within buildings and parking areas serving H30A and H30B districts are exempt. Additionally, ~~SD-B40 shall be exempt. is exempted when the adjacent or contiguous zoning district or use is the same with the exception of vehicular use areas for parking lots, loading, storage or screening of equipment requirements.~~ Expansive concrete or paver areas shall require landscaping to soften and scale the buildings.

(b) *Required buffer landscaping adjacent to streets and abutting properties:* On any proposed, redeveloped site, or open lot providing a vehicular use area for H30C, H40, H120, ~~SD-B40~~ adjacent or contiguous to H40, or municipal plots where such area is abutting street(s) and/or property lines, including dedicated alleys, landscaping shall be provided between such area and such perimeters as follows:

Section 90-94. Open space.

All open space on any site shall conform to the following requirements:

(1) *General landscape treatment:*

a. Groundcover, shrubs, and other landscape materials (not including rocks, gravel, pavers, turf blocks, artificial turf, or other items) shall be installed to cover all open space areas not covered by paving or structures, using the required percentages specified in the plant material section. No substance including rocks, gravel, pavers, turf blocks, artificial turf or other materials which prevents water percolation shall be used in areas not approved for paving or structures. Proper horticultural planting practices shall comply with Xeriscape requirements.

b. Along all buildings and structures, mature landscaping at installation shall be installed at one-half the height of the building or structure at one tree per 25 linear feet of each building's facade on all sides for scaling and softening. On buildings over 75 feet in height the proposed trees/palms shall be at least 35 to 38 feet tall at time of installation. NOTE: If the landscape buffer is contiguous to the building then the landscape buffer requirement will supersede, with the exception of one tree per 25 feet being one-half the height of the building at installation. Additionally, shrubs and groundcovers shall be added to enhance the building. In all districts except the SD-B40 district, A a minimum

six-foot-wide landscape strip shall be provided not including overhands or awnings around all the buildings.

Section 90-95. Landscape buffers.

(a) Where any plot zoned or used for H30C, H40 or H120 is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least ten feet in depth.

(b) Where any plot zoned or used for H40 or H120 or H30C East of Harding Avenue is contiguous to any plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least 15 feet in depth.

~~(c) Where any plot zoned or used SD-B40 or municipal plot is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least 15 feet in depth.~~

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this 11 day of May, 2010.

PASSED and ADOPTED on second reading this day of , 2010.

Ordinance No.

Daniel Dietch, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

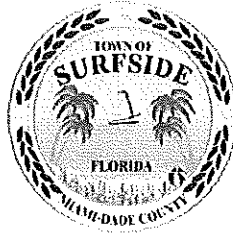
On First Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Dietch	yes	_____	no	_____
Vice Mayor Graubart	yes	_____	no	_____
Commissioner Karukin	yes	_____	no	_____
Commissioner Kopelman	yes	_____	no	_____
Commissioner Olchyck	yes	_____	no	_____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item # 4A2

Agenda Date: May 11, 2010

Subject: Proposed Ordinance Amending Definition of Base Flood Level Elevations

Objective: To revise the definition of substantial improvement (floor height requirement) for new construction in Surfside as it relates to the 50% property improvement rule.

Background: Enforcement of flood elevation requirements has been problematic for several years leading to a number of properties in Surfside that are not compliant with flood zone requirements. The Town's Building Official has determined that a Code Amendment, which is not in conflict with FEMA standards, could be adopted which would make a number of properties (currently in non-compliance) compliant.

The Surfside Planning and Zoning Board (P&Z) has reviewed the proposed amendment and will hold a public hearing on the proposed amendment on May 27, 2010. The P&Z Board has recommended approval of the proposed amendment. The Board has determined that the adopted change would be in the best interest of the community.

Analysis: The proposed amendment would apply to residential and non-residential properties in Surfside. It has been determined that the Surfside definition of substantial improvement is more restrictive than FEMA's.

The Town Attorney has prepared an Ordinance Amendment with modified language changing the definition of substantial improvement to reflect compliance with FEMA (Att. A).

Residential Impact: To alleviate the more restrictive language for residential properties, the words ".....or substantial improvement...." would be removed from Division 3, Section 42-57 (1) of the Surfside Municipal Code and the following language would be inserted:"...that meets the criteria of substantial improvement as may be amended from time to time by FEMA..."

Non-residential Impact: For non-residential properties, the same wording described in the Residential Section would be deleted and inserted, respectively, in Division 3, Section 42-57 (2) of the Surfside Municipal Code.

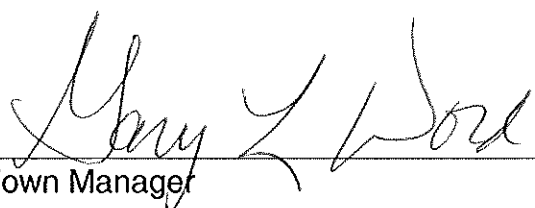
Growth Impact: The proposed amendment, if adopted, would be in compliance with the Town's Comprehensive Plan.

Budget Impact: If adopted, the ordinance amendment would make a number of properties in Surfside compliant with FEMA flood elevation standards. As such many properties would become compliant and further enforcement action would not be necessary. Therefore, enforcement and legal costs for this type of enforcement would be largely eliminated.

Staff Impact: Would reduce staff enforcement efforts by making more Surfside properties compliant with FEMA standards.

Recommendation: It is recommended that the Town Commission introduce for first reading an Ordinance Amending Chapter 42, subsections (1) and (2) of Section 42-92 (Standards) of the Town of Surfside relating to base flood level elevations. Second reading and possible adoption would be scheduled for June 8, 2010.

Department Head


Town Manager

ORDINANCE NO. 10- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SUBSECTIONS (1) AND (2) OF SECTION 42-92 "SPECIFIC STANDARDS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES RELATED TO BASE FLOOD LEVEL ELEVATIONS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to address base flood elevation and address an issue relating to the current floor height requirement of all construction.

WHEREAS, The Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on May 27, 2010 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, The Town Commission held its first public reading on May 11, 2010 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on June 8, 2010 and further finds the proposed change to the Code necessary and in the best interest of the community.

Ordinance No. _____

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

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

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 42-92. Specific standards.

In all A-zones where base flood elevation data have been provided (zones AE, AI-30, and AH), as set forth in division 3, section 42-57, the following provisions shall apply:

- (1) *Residential construction.* All new construction ~~or substantial improvement~~ of any residential building (including manufactured home) that meets the criteria of substantial improvement as may be amended from time to time by FEMA shall have the lowest floor, including basement, elevated to no lower than the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of division 5, subsection 42-92(3).
- (2) *Nonresidential construction.* All new construction ~~or substantial improvement~~ of any commercial, industrial, or nonresidential building (including manufactured home) s that meets the criteria of substantial improvement as may be amended from time to time by FEMA shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Ordinance No. _____

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this 11 day of May, 2010.

PASSED and ADOPTED on second reading this day of , 2010.

Daniel Dietch, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: _____

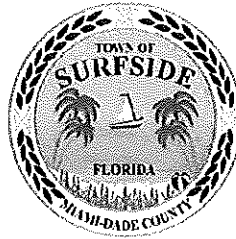
On Second Reading Seconded by: _____

Ordinance No. _____

Vote:

Mayor Dietch	yes _____	no _____
Vice Mayor Graubart	yes _____	no _____
Commissioner Karukin	yes _____	no _____
Commissioner Kopelman	yes _____	no _____
Commissioner Olchyck	yes _____	no _____

Ordinance No. _____



TOWN OF SURFSIDE
Office of the Town Attorney


MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 861-4863

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney 

cc: Gary Word, Town Manager

DATE: June 8, 2010

SUBJECT: Re-Adoption of Zoning Code (Ordinance 08-1491)

On May 13, 2008, the Town adopted a re-write of certain portions of the Zoning Code (sometimes referred to as Ordinance 08-1491 or the 2008 zoning code re-write). The changes that were made in that ordinance are detailed by the Town Planner in the memorandum attached as Exhibit "A."

On April 26, 2010, a petition for writ of certiorari and a complaint captioned Elizabeth Bankes v. Town of Surfside Case No. 10-24860 CA 22 was filed challenging the March 9, 2010 approval of a site plan (Resolution 10-Z-01) for a hotel located at 9200 Collins Avenue. The lawsuit alleges, among other things, that the original adoption of the 2008 zoning code re-write (Ordinance 08-1491) was defective for failure to properly advertise the adoption. In preparing to respond to the lawsuit, we searched the Town Clerk's office and found incomplete records. We could not locate all the required public notices for the adoption of the ordinance. The Town Clerk contacted the Miami Herald and asked them to retrieve these records.

Upon receipt of those records from the Miami Herald, we discovered that the first reading of Ordinance 08-1491 was properly noticed but the newspaper notice for second reading scheduled for May 13, 2008 may not have complied with the statutory requirements. In addition, we were unable to locate the required minutes for all the meetings where this matter

was discussed. Accordingly, in abundance of caution, the Town Clerk, the Town Manager, the Town Planner and I have concluded the most effective and efficient way to resolve this issue is to re-notice and re-adopt Ordinance 08-1491 (together with all amendments to the Zoning Code since the date of that adoption, up through and including this date). If you pass on first reading the Zoning Code as amended to date, we will forward this item to the Planning and Zoning Board sitting as the Local Planning Agency on June 24th for their determination of consistency with the Town Comprehensive Plan. Second reading will then be noticed for the July 13th Commission meeting.

Staff would request immediate re-adoption of this Ordinance (as amended) because at least fifty (50) permits (as detailed in Composite Exhibit "B") have been issued since 2008 to Surfside residents pursuant to the Ordinance and these rights are presumed to have vested under this code amendment. We would not want to adversely impact any resident, who acted in good faith and in reliance under Ordinance 08-1491. These property owners should not be penalized.

Notwithstanding the foregoing, approvals for which permits have not yet been issued and where reliance cannot be asserted, will not be deemed to have vested and those applications would have to be re-filed and/or re-heard. The site plan approval which is the subject of the Bankes litigation at 9200 Collins would therefore have to be re-noticed and advertised pursuant to the current notice requirements for site plan approvals and be re-heard before this Commission. The Plaintiff and all other residents who wish to be heard will therefore be afforded an opportunity to speak to this Application. It will also give the Applicant an opportunity to address the issues raised by concerned citizens. As an aside, it should be noted that any costs associated with the re-filing of this Application shall be borne by the Applicant.

RECOMMENDATION: It is recommended by Staff that you adopt this Ordinance as presented. We strongly urge that any other amendments you might wish to consider be addressed subsequent to the July adoption.



MEMORANDUM

To: Town Commission
Thru: Gary Word, Town Manager
CC: Lynn Dannheisser, Town Attorney
From: Sarah Sinatra, AICP, Town Planner
Date: May 13, 2008
Re: Comparison of existing and proposed Zoning Codes

The proposed Zoning Code for the Town of Surfside has transformed the seven existing zoning districts (not including MU) into six new zoning districts. A breakdown of the existing districts and proposed districts is as follows:

Existing Code District	Proposed Code District
RS-1	H30A
RS-2	H30B
RD-1	H30C
RD-2	H30C
RM-1	H40
RT-1	H120
B-1	SD-B40
MU	MU

In order to compare the differentiations between the existing and proposed district, Staff prepared comparison charts of the zoning districts in the existing code and in the proposed code. The charts are attached for your review.

Further, the proposed Zoning Code addresses other issues that impact the built environment for the Town of Surfside. These issues are as follows:

Issue	Section	Page
Determination that height should be measured from the crown of the road	90.2	4
Clarification of design review procedures for design review board	90.18(2)(b)	15
New requirements for development review	90.19 & 90.20	16 – 21
New standards of review for rezoning applications	90.35(8)	37
Adding administrative variance procedure	90.36.2	40
Maintaining current permitted uses in new business district (SD-B40)	90.41.3	49 - 47



Allowance of public schools as a permitted use in H30C and H40 districts	90.41.3	47
Amending the projection of balconies into setbacks	94.47.4 & .6	53
New provision requiring the staggering of balconies	90.46.7	53
New provisions requiring pervious area	90.49	54
Allowance and regulation of roof decks	90.50	55
Allowance and regulation of portable storage units	90.53	56
Clarifying the intrusion into setbacks by uncovered patios and terraces	90.54.3	57
Allowance of six feet ornamental walls and fences into all yards	90.56.1	58
Clarification of measurement of wall height from crown of road	90.56.2	58
New provisions requiring the articulation of ornamental walls	90.56.4	58
New provisions requiring weep holes at the base of ornamental walls	90.56.5	58
Allowance and regulation of temporary construction fences	90.56.14	59
Amending the length allowance of docks to thirty-five (35) feet	90.57	59
Allowance and regulation of shared parking	90.81	80
New provisions requiring landscape buffers	90.95	101
Inclusion of Town's adopted Design Guidelines as Zoning Code Exhibit A	Exhibit A	A1

Finally, the last major item to be presented in this memorandum is the Code's Regulated Uses Table. While the proposed Zoning Code's Regulated Uses table maintains the permitted uses for the business district as currently found in the Zoning Code as codified in July 1997, Staff has determined that several of the uses are slightly outdated. Therefore final the attachment includes:

- Table 1. Town's Current Regulated Uses table. This table includes the same business district uses as found in the Code codified in 1997.
- Table 2. Staff's Proposed Regulated Uses table. This table includes updated business district uses.

		RS-1 (Existing Code)	H30-A (Proposed Code)
Uses		Permitted: <ul style="list-style-type: none"> ◦ Detached Single Family ◦ Public parks and playgrounds Permitted Accessory: <ul style="list-style-type: none"> ◦ Boat Docks ◦ Game Courts ◦ BBQ Grills ◦ Swimming Pools ◦ Domestic Storage ◦ Temporary Buildings 	Permitted: <ul style="list-style-type: none"> ◦ Detached Single Family ◦ Parks and Open Space ◦ Playgrounds Permitted Accessory: <ul style="list-style-type: none"> ◦ Boat Docks + Moorings ◦ Game Courts ◦ Home BBQ Grills ◦ Swimming Pools
Height (Max)	Principal Building	30 ft	30 ft
	<u>Accessory</u>	<u>Not Specified</u>	<u>12 ft</u>
	Stories	2	Not Specified
Lot	Lot Width (Min)	50 ft	50 ft
	Lot Area/dwelling (Min)	8,000 sq ft	8,000 sq ft
	Lot Coverage (Max)	40%	40%
	Minimum FI Area (Min)	2,500 ft	Not Specified
Setbacks (Min)	Primary	20 ft	20 ft
	Interior side	5 ft	5 ft
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage
	Rear	20 ft	20 ft
	Secondary (corner only)	10 ft	10 ft
<u>Pervious Area (Min)</u>		<u>0%</u>	<u>35%</u>

Summary of changes:

- Height
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Pervious Area
 - The existing code does not require minimum pervious area.
 - The proposed code provides a minimum pervious area of 35%.

		RS-2 (Existing Code)	H30-B (Proposed Code)
Uses		Permitted: <ul style="list-style-type: none"> • Detached Single Family • Public parks and Playgrounds Permitted Accessory: <ul style="list-style-type: none"> • Boat Docks • Game Courts • BBQ Grills • Swimming Pools • Domestic Storage • Temporary Buildings 	Permitted: <ul style="list-style-type: none"> • Detached Single Family • Parks and Open Space • Playgrounds Permitted Accessory: <ul style="list-style-type: none"> • Game Courts • Home BBQ Grills • Swimming Pools
Height (Max)	Principal Building	30 ft	30 ft
	Accessory	Not Specified	12 ft
	Stories	2	Not Specified
Lot	Lot Width (Min)	50 ft	50 ft
	Lot Area/dwelling (Min)	5,600 sq ft	5,600 sq ft
	Lot Coverage (Max)	40%	40%
	Minimum FI Area (Min)	1,800 ft	Not Specified
Setbacks (Min)	Primary	20 ft	20 ft
	Interior side	5 ft	5 ft
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage
	Rear	20 ft	20 ft
	Secondary (corner only)	10 ft	10 ft
Pervious Area (Min)		0%	35%

Summary of changes:

- Height
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Pervious Area
 - The existing code does not require minimum pervious area.
 - The proposed code provides a minimum pervious area of 35%.

		RD-1 (Existing Code)			H30C (Proposed Code)
Uses		Permitted: <ul style="list-style-type: none"> • Detached Single Family • Public parks and playgrounds • Two Family Dwelling • Multi-family building (Lots 75 feet or larger, east side of Harding Ave) Permitted Accessory: <ul style="list-style-type: none"> • Boat Docks • Domestic Storage • Game Courts • BBQ Grills • Swimming Pools • Temporary Buildings 			Permitted: <ul style="list-style-type: none"> • Detached Single Family • Duplex • Multi-Dwelling Structure • Townhouse • <u>Hotel</u> • <u>Suite-Hotel</u> • <u>Public or Private Schools</u> • <u>Public Assembly</u> • <u>Parks & Open Space</u> • <u>Playgrounds</u> Permitted Accessory: <ul style="list-style-type: none"> • Game Courts • Home BBQ Grills • Laundry/Service Rooms • Recreational Rooms • Swimming Pools • Vending Machines • <u>Parking</u>
Height (Max)	Determination	Single family	Two-family	Multi-Family	Zoning District
	Principal Building	30 ft	30 ft	30 ft	30 ft
	Accessory	<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>12 ft</u>
	Stories	2	2	2	Not Specified
Lot	Lot Width (Min)	50 ft	50 ft	75 ft	50 ft
	Lot area / dwelling (Min)	5,000 sq ft	2,500 sq ft	2,500 sq ft	Not Specified
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	Not Specified
	Minimum FI Area (Min)	1,800 sq ft	950 Sq ft	Based on use	Not Specified
Setbacks (Min)	Primary	20 ft	20 ft	20 ft	20 ft
	Interior side	5 ft	5 ft	7 ft	5 ft
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage	10% of frontage	10% of frontage
	Rear	20 ft	20 ft	10 ft	10 ft
	Secondary (corner only)	10 ft	10 ft	10 ft	10 ft
Pervious Area (Min)		None	None	None	20%

Summary of changes:

- Uses
 - The proposed code allows for six additional permitted uses including hotels and schools
- Height
 - The existing code utilizes use to determine height and other lot properties
 - The proposed code utilizes the zoning district to determine height and other lot properties
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Pervious Area
 - The existing code does not require minimum pervious area.
 - The proposed code provides a minimum pervious area of 20%.

		RD-2 (Existing Code)			H30C (Proposed Code)
Uses		Permitted: <ul style="list-style-type: none"> • Detached Single Family • Public parks and playgrounds • Two Family Dwelling Permitted Accessory: <ul style="list-style-type: none"> • Boat Docks • Domestic Storage • Game Courts • BBQ Grills • Swimming Pools • Temporary Buildings 			Permitted: <ul style="list-style-type: none"> • Detached Single Family • Duplex • Multi-Dwelling Structure • Townhouse • <u>Hotel</u> • <u>Suite-Hotel</u> • <u>Public or Private Schools</u> • <u>Public Assembly</u> • <u>Parks & Open Space</u> • <u>Playgrounds</u> Permitted Accessory: <ul style="list-style-type: none"> • Game Courts • Home BBQ Grills • Laundry/Service Rooms • Recreational Rooms • Swimming Pools • Vending Machines • <u>Parking</u>
Height (Max)	<u>Determination</u>	<u>Single family</u>	<u>Two-family</u>	<u>Multi-Family</u>	<u>Zoning District</u>
	Principal Bldg	30 ft	30 ft	30 ft	30 ft
	<u>Accessory</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>12 ft</u>
	Stories	2	2	2	Not Specified
Lot	Lot Width (Min)	50 ft	50 ft	75ft	50 ft
	Lot Area/dwelling (Min)	5,000 Sq ft	2,500 Sq ft	1,200 Sq ft	Not Specified
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	Not Specified
	Minimum FI Area (Min)	1,800 Sq ft	950 Sq ft	Based on use	Not Specified
Setbacks (Min)	Primary	20 ft	20 ft	20 ft	20 ft
	Interior side	5 ft	5 ft	7 ft	5 ft
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage	10% of frontage	10% of frontage
	Rear	10 ft	10 ft	10 ft	10 ft
	Secondary (corner only)	10 ft	10 ft	10 ft	10 ft
<u>Pervious Area (Min)</u>		<u>None</u>	<u>None</u>	<u>None</u>	<u>20%</u>

Summary of changes:

- Uses
 - The proposed code allows for six additional permitted uses including hotels and schools
- Height
 - The existing code utilizes use to determine height and other lot properties
 - The proposed code utilizes the zoning district to determine height and other lot properties
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Pervious Area
 - The existing code does not require minimum pervious area.
 - The proposed code provides a minimum pervious area of 20%.

		RM-1 (Old Code)				H40 (Proposed Code)		
Uses		Permitted: • Detached Single Family • Two Family Dwelling • Multiple-family Dwellings • <u>Motels</u> • <u>Suite-Motels</u> Permitted Accessory: • Boat Docks • Domestic Storage • Game Courts • BBQ Grills • Swimming Pools • Temporary Buildings • Rental Bldg Admin Office • Lounges, card rooms, auxiliary kitchens • Laundry rooms • Vending Machines • Off-Street Parking & loading • Swimming Pools, cabanas, game courts				Permitted: • Detached Single Family • Duplex • Multi-Dwelling Structure • Townhouse • <u>Hotel</u> • <u>Suite-Hotel</u> • <u>Public or Private Schools</u> • <u>Parks & Open Space</u> • <u>Playgrounds</u> Permitted Accessory: • Game Courts • Home BBQ grills • Laundry / Service Rooms • Office Spaces • Recreational Rooms • Swimming Pools • Vending Machines • Parking		
Height (Max)	Determination	<u>Single family</u>	<u>Two family</u>	<u>Multi Family</u>	<u>Hotel & Motel</u>	<u>Width is ≤ 50 ft</u>	<u>Width is > 50 ft & <100 ft</u>	<u>Width is ≥ 100 ft</u>
	Principal Bldg	30 ft	30 ft	40 ft	40 ft	40 ft	40 ft	40 ft
	Accessory	<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>12 ft</u>	<u>12 ft</u>	<u>12 ft</u>
	Stories	2	2	3	3	Not Specified	Not Specified	Not Specified
Lot	Lot Width (Min)	50 ft	50 ft	75 ft	100 ft	≤ 50 ft	> 50 ft & <100 ft	≥ 100 ft
	Lot area / dwelling (Min)	5,000 Sq ft	2,500 Sq ft	750 Sq ft	400 Sq ft	Not Specified	Not Specified	Not Specified
	Lot Coverage (Max)	Not Specified	Not Specified	Not Specified	Not Specified	Not Specified	Not Specified	Not Specified
	Minimum FI Area (Min)	1,800 sq ft	950 Sq ft	Based on use	Based on Use	Not Specified	Not Specified	Not Specified
Setbacks (Min)	Primary	20 ft	20ft	20ft	20 ft	20 ft	20 ft	20 ft
	Interior side	5 ft	5 ft	7 ft	7 ft	5 ft	7 ft	7 ft
	Interior side for lots over 50 ft in width	10% of frontage	10% of frontage	10% of frontage	10% of frontage	10% of frontage	10% of frontage	10% of frontage
	Rear	10 ft	10ft	10ft	20 ft	10 ft	10 ft	10 ft
	Secondary (corner only)	10 ft	10ft	10ft	10 ft	10 ft	10 ft	10 ft
Pervious Area (Min)		<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>20%</u>	<u>20%</u>	<u>20%</u>

Summary of changes:

- Uses
 - The proposed code allows for six additional permitted uses including hotels and schools
- Height
 - The existing code utilizes use to determine height and other lot properties
 - The proposed code utilizes lot width to determine height and other lot properties
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Pervious Area
 - The existing code does not require minimum pervious area.
 - The proposed code requires a minimum pervious area of 20%.

		RT-1 (Old Code)		H120 (Proposed Code)
Uses		Permitted: <ul style="list-style-type: none"> • Detached Single Family • Multiple-family dwellings • <u>Motels</u> • <u>Suite-motels</u> • Hotels • Suite-hotels Permitted Accessory: <ul style="list-style-type: none"> • Swimming Pools • Off-street parking and loading facilities 		Permitted: <ul style="list-style-type: none"> • Detached Single Family • Duplex • Multi-Dwelling Structure • Townhouse • Hotel • Suite-Hotel • Parks and Open Space • Playgrounds Permitted Accessory: <ul style="list-style-type: none"> • Game Courts • Home BBQ grills • Laundry / Service Rooms • Office Spaces • Recreational Rooms • Swimming Pools • Vending Machines
Height (Max)	<u>Determination</u>	<u>Multi-Family</u>	<u>Hotel and Motel</u>	<u>Zoning District</u>
	Principal Bldg	120 ft	120 ft	120 ft
	<u>Accessory</u>	<u>Not Specified</u>	<u>Not Specified</u>	<u>12 ft</u>
	Stories	12	12	Not Specified
Lot	<u>Lot Width (Min)</u>	<u>100 ft</u>	<u>150 ft</u>	<u>50 ft</u>
	Lot area / dwelling (Min)	400 Sq ft	Not Specified	Based on use
	Lot Coverage (Max)	None	None	None
	Minimum FI Area (Min)	Based on use	Based on use	Not Specified
Setbacks (Min)	Primary	40 ft	40 ft	40 ft
	Interior side	10 ft	10 ft	10 ft
	Rear	30 ft	30 ft	30 ft
	Secondary (corner only)	20 ft	20 ft	20 ft
Pervious Area (Min)		Not Specified	Not Specified	Not Specified

Summary of changes:

- Uses
 - The proposed code no longer permits motels or suite-motels
- Height
 - The existing code utilizes use to determine height and other lot properties
 - The proposed code utilizes zoning district to determine height and other lot properties
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.
- Lot
 - The existing code requires minimum lot widths of 100 ft and 150 ft.
 - The proposed code requires a minimum lot width of 50 ft.

	B-1 (Old Code)		SD-B40 (Proposed Code)	
Uses	Permitted: Antique Shops Appliances Art and photograph galleries Art Dealers Art Supplies Bakeries Banks Barbershops Beauty Parlors Books and newspaper Business & Professional offices, except veterinary offices Candy & Nut Shops Caterers Cigars & tobacco Coin-operated machines Confectionary and Ice cream stores Currency exchange Delicatessens Department Stores Drug stores & sundries Dry cleaning & laundry agency Dry Goods Flowers & plants Fruit Shops Furniture Furrier General Ticket Agencies Gift Shops Grocery & meat stores or supermarkets	Permitted (Cont.): Hardware, paint & wallpaper Interior decorator Jewelry Liquor Stores Locksmith Luggage Men's, women's, children's clothing Millinery Office machines and supplies Pet supplies Photographers and camera stores Pottery Restaurants Sale of televisions, radios, phonograph and recording equipment Savings and loan associates Sheet music and musical instruments Shoe Repair Shoes Sporting goods Stationery & greeting cards Stocks & bond brokers Tailor Telegraph station Telephone exchange Toys Travel agency Video tapes sales & rentals	Permitted: Antique Shops Appliances Art and photograph galleries Art Dealers Art Supplies Bakeries Banks Barbershops Beauty Parlors Books and newspaper Business & Professional offices, except veterinary offices Candy & Nut Shops Caterers Cigars & tobacco Coin-operated machines Confectionary and Ice cream stores Currency exchange Delicatessens Department Stores Drug stores & sundries Dry cleaning & laundry agency Dry Goods Flowers & plants Fruit Shops Furniture Furrier General Ticket Agencies Gift Shops Grocery & meat stores or supermarkets	Permitted (Cont.): Hardware, paint & wallpaper Interior decorator Jewelry Liquor Stores Locksmith Luggage Men's, women's, children's clothing Millinery Office machines and supplies <u>Parking Lot & structures</u> Pet supplies Photographers and camera stores <u>Places of Public Assembly</u> Pottery Restaurants Sale of televisions, radios, phonograph and recording equipment Savings and loan associates Sheet music and musical instruments Shoe Repair Shoes Sporting goods Stationery & greeting cards Stocks & bond brokers Tailor Telegraph station Telephone exchange Toys Travel agency Video tapes sales & rentals
		Permitted Use (Above 1st floor Only): <u>Places of public assembly</u> Dance or music instruction studios Delivery service Driving school offices Employment agencies Loan or mortgage office Medical or dental clinic Modeling school, language school, or athletic instruction Radio or television station or studio Secretarial service, mailing, bookkeeping, court reporter Taxi agency Title company	Permitted Use (Above 1st floor Only): Dance or music instruction studios Delivery service Driving school offices Employment agencies Loan or mortgage office Medical or dental clinic Modeling school, language school, or athletic instruction Radio or television station or studio Secretarial service, mailing, bookkeeping, court reporter Taxi agency Title company	
Height (Max)	Principal Bldg	40 ft	40 ft	
	Accessory	Not Specified	12 ft	
	Stories	3	Not Specified	
Lot	Lot Width (Min)	0 ft	0 ft	
	Lot Area/ dwelling (Min)	Not Specified	Not Specified	
	Lot Coverage (Max)	Not Specified	Not Specified	
	Minimum Ft Area (Min)	Not Specified	Not Specified	
Setbacks (Min)	Primary	0 ft	0 ft	
	Interior side	0 ft	0 ft	
	Rear	0 ft	0 ft	
	Secondary (corner only)	0 ft	0 ft	
Pervious Area (Min)		Not Specified	Not Specified	

Summary of changes:

- Uses
 - The proposed code allows for parking lots, parking structures, and places of public assembly (on the first floor) as a permitted use
- Height
 - The existing code does not require a height limitation for accessory structures.
 - The proposed code provides a height limitation of 12 feet for accessory structures.

COMPOSITE EXHIBIT B

Roof Deck with additional setbacks for neighbor's privacy required	
6/26/2008	8875 Hawthorne Avenue
10/30/2008	708 – 88 th Street
2nd Stories, limited to 80% of first floor	
10/29/2009	1280 Biscaya Drive
11/19/2009	9048 Bay Drive
Required to Place Mechanical Equipment 5 feet from Property Line	
10/29/2009	1280 Biscaya Drive
2/25/2010	9280 Carlyle Avenue
2/25/2010	9357 Dickens Avenue
Garage Conversion, Required to place landscaping in front of former garage wall	
10/30/2008	9525 Bay Drive
2/26/2009	9141 Froude Avenue
6/25/2009	425 Isaac Singer Blvd
8/27/2009	425 - 88th Street
8/27/2009	825 - 88th Street
10/29/2009	9508 Carlyle Drive
11/19/2009	9472 Carlyle Avenue
2/25/2010	9357 Dickens Avenue
10% minimum window / wall openings on all elevations	
6/26/2008	8875 Hawthorne Avenue
7/31/2008	501 – 88 th Street
10/29/2009	1280 Biscaya Drive
2/25/2010	9280 Carlyle Avenue
Fences in front and corner yards limited to 50% opacity and 3.5 feet	
9/24/2009	8875 Hawthorne Avenue
10/29/2009	1280 Biscaya Drive
4/29/2010	400 – 95 th Street
4/29/2010	725 89 th Street
Required to plant street trees, lot trees, and other landscaping	
6/26/2008	8875 Hawthorne Ave - Required to plant 8 street trees
10/30/2008	708 – 88 th Street - Required to plant 6 trees on lot, and 2 street trees
10/29/2009	1280 Biscaya Drive - Required to plant 8 trees on lot and 3 street trees
11/19/2009	9048 Bay Drive - required to plant 13 trees on lot and 5 street trees

Reviews from May 2008 - present that are unaffected by Zoning Change

Date	Address	Project (work requested)
4/24/2008	1236 Biscaya Drive	Modification of front entrance wall design and height
4/24/2008	9409 Byron Avenue	Main Entry Addition (building foot print unchanged so reviewed solely on the Residential Design Guidelines, not Zoning)
6/26/2008	9975 Harding Avenue	Facade remodeling, including signage and store front (non-residential)
7/31/2008	625 -- 94th Street	New ornamental wall along secondary frontage of home
7/31/2008	9427 Harding Avenue	New signage (non-residential)
7/31/2008	9555 Harding Avenue	New signage (non-residential)
8/28/2008	9432 Carlyle Avenue	130 sq. ft. addition to the interior side of single family home
9/25/2008	1364 Biscaya Drive	1st Story and 2nd Story Additions to single family home, New Gate and Fences, New Front Entry
9/25/2008	9408 Byron Avenue	2nd Story Addition
9/25/2008	9508 Harding Avenue	New Signage (non-residential)
9/25/2008	9516 Bay Drive	New front entry feature (does not include the proposed additions to the front and rear of the home)
10/30/2008	9165 Emerson Avenue	1st Story Addition in rear of home, New Front Entry, New Wood Deck
11/20/2008	9133 Dickens Avenue	1st Story Additions (front and rear of home) and new main entry feature
12/18/2008	8801 Collins Avenue	New signage (non-residential)
1/29/2009	1100 - 90th Street	New front and corner yard fence
1/29/2009	9156 Froude Avenue	1st Story Additions in rear and side of home, New Front and Rear Terraces
2/26/2009	9300 Collins Avenue	Interior and Exterior Hotel (La Plage) Renovations
2/26/2009	9457 Harding Avenue	New Signage and Awning (non-residential)
4/30/2009	1364 Biscaya Drive	New Front Entry
4/30/2009	9440 Byron Avenue	New Front Entry
5/5/2009	9473 Harding Avenue	New signage (non-residential)
5/28/2009	9435 Harding Avenue	New signage (non-residential)
5/28/2009	9556 Harding Avenue	New signage (non-residential)
6/25/2009	9458 Harding Avenue	Replace front door
7/28/2009	9472 Bay Drive	Re-roof the house with shingles, which are the existing material
7/28/2009	9472 Harding Avenue	New signage (non-residential)
7/28/2009	9559 Harding Avenue	New signage (non-residential)
8/27/2009	9273 Carlyle Avenue	Re-roof the house with shingles, which are the existing material
8/27/2009	9476 Harding Avenue	New signage (non-residential)
9/24/2009	9563 Harding Avenue	New signage (non-residential)
10/29/2009	9471 Harding Avenue	New signage (non-residential)
11/19/2009	9209 Carlyle Avenue	Single story addition and a rear yard patio to single family residence
1/7/2010	9538 Harding Avenue	New signage (non-residential)
1/7/2010	9567 Harding Avenue	New signage (non-residential)
2/25/2010	9200 Collins Avenue	New Hotel
3/25/2010	9433 Harding Avenue	New signage (non-residential)
3/25/2010	9560 Collins Avenue	New fence (The Shul of Bal Harbour)
5/27/2010	9156 Carlyle Avenue	Rear Addition to single family home [NOT YET APPROVED]

ORDINANCE NO. ____

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

WHEREAS, the Town of Surfside (the "Town") has been updating and streamlining its Zoning Code and amended its official Zoning Map to better reflect the Town's future needs and community vision; and

WHEREAS, this Ordinance purports to repeal and replace Chapter 90 "Zoning" in its entirety, including but not limited to, Ordinance 08-1491, all subsequent amendments thereto, up through and including the date of this Ordinance (and including but not limited to 08-1504, 08-1505, 09-1510, 09-1514, 09-1515, 09-1520, 09-1523, 09-1524; 09-1526; 09-1528, 09-1529; 09-1532; 09-1539; 09-1542; 10-1545;10-1549;10-1550; 10-1551 and 10-1552) as well as the official Zoning Map, as may have been amended from time to time, all of which is incorporated into the revised Zoning Code attached hereto as Exhibit "A"; and

WHEREAS, after the prior intended adoption on May 13, 2008 as well as the hearings for each amendment thereto since 2008, and after conducting a properly noticed public hearing on June 24, 2008, the Local Planning Agency pursuant to Section 163.3174 (4) (c) has determined that the aforementioned Zoning Code, Official Zoning Map, and all updates thereto contained attached as Exhibit "A" are consistent with the Town Comprehensive Plan; and

WHEREAS, the Town Commission has reviewed this Ordinance at duly noticed and held public hearings beginning June 8, 2010 and determined that it is consistent with the Town's

comprehensive plan, the continuing development of the vision of the Town, as well as all requirements of the law; and

WHEREAS, all of the recitals contained in Ord. 08-1491 are hereby incorporated into and fully adopted as part of this ordinance and the zoning code adopted herein.

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

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

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

Section 2. Adoption of the Zoning Code. The Town Commission hereby repeals the existing Chapter 90 “Zoning” of the Town Code (including Division II Signs) and replaces it with the Zoning Code, the Official Zoning Map, together with all amendments to the Zoning Code adopted since May 13, 2008 attached hereto as composite Exhibit “A” and incorporated, as if fully set forth herein.

Section 3. Repeal of Conflicting Provisions.

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

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the

legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part. It should be noted Section 90-71 et. seq. of the Code contains its own severability clauses with respect to "Division II Signs" and these severability provisions with respect to Signs shall govern over this general severability clause if any section of the Code between Section 90.71 through 90.80 is held invalid or unconstitutional.

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Surfside, Florida, Code of Ordinances; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be retroactive to May 13, 2008 upon adoption on second reading.

PASSED and ADOPTED on First Reading the 13th day of June, 2010.

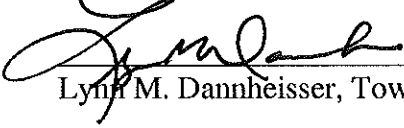
PASSED and ADOPTED on Second Reading this _____ day of _____, 2010.

Daniel Dietch, Mayor

Attest:

Deborah Eastman
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

Moved by: _____

Second by: _____

Vote:

Mayor Dietch	yes _____	no _____
Vice Mayor Graubart	yes _____	no _____
Commissioner Karukin	yes _____	no _____
Commissioner Kopelman	yes _____	no _____
Commissioner Olchyck	yes _____	no _____

ORDINANCE NO. 08-1491

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. Repeal of Conflicting Provisions.

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

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

Section 5. Inclusion in the Code. It is the intention of the Town Commission, and it is hereby ordained that the provision of this Ordinance shall become and made part of the Town of Surfside, Florida, Code of Ordinances; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

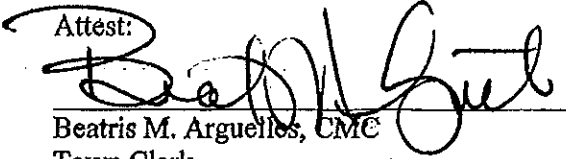
Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.

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

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

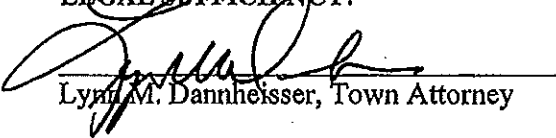


Charles W. Burkett, Mayor

Attest:


Beatris M. Arguelles, CMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

Moved by: Vice Mayor Imberman

Second by: Commissioner Calderon

Vote: 4-1

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

Town of Surfside Zoning Code



Prepared by:



an Employee Owned Company

Calvin, Giordano & Associates, Inc.

EXCEPTIONAL SOLUTIONS

1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316
Phone: 954.921.7781 • Fax: 954.921.8807

May 2008



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Appendix

Exhibit A Design Guidelines..... A-1



Article 1 In General

Sec. 90.1 General Rules of Construction.

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

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

Sec. 90.2 Definitions.

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

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

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

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

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

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

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

Breezeway: a covered passageway or space between the main building and an accessory building, open on two sides and the roof of which is structurally integrated with the buildings it separates.

Building: any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property.

Building area: the area within the confines of the exterior walls of the main building, accessory buildings, covered porches and terraces.

Building, completely enclosed: a building having no outside openings, other than doors, windows, and ventilators.

Building, main: a building in which the principal use of the lot on which it is located is conducted, or is intended to be conducted.

Bulk: a term used in these regulations to describe the size (and shape) of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.



Business:

1. Includes all vocations, occupations, professions, enterprises, establishments and all activities and matters, together with all devices, machines, vehicles and appurtenances used herein, and of which are conducted for private profit or benefit, either directly or indirectly, on or from any premise in the town
2. Does not include the customary activities of religious, charitable, nonprofit service clubs and organizations or educational nonprofit institutions as those terms are defined in Division 205, Florida Statutes, as may be amended.

Cabana: a permanent or portable bath cabin on the exterior of a residence, hotel or apartment house, together with only such accessories as wood slat walks or decks, terraces, rubbing rooms and toilet facilities, but not intended for sleeping or living quarters. Cabanas erected on the exterior may be of pipe frame and canvas, wood frame and masonite and be constructed in such a manner that they are portable and easily dismantled in the event of a hurricane. Cabanas of any other type shall be built of masonry. Cabanas shall be permitted only in conjunction with an outdoor swimming pool.

Canopy: a permanent, roof-like cover made of cloth, metal, vinyl or other permanent material supported from the ground or deck or floor of a building, and from the walls of a building for protection from sun or weather.

Caretaker's quarters: living quarters within a portion of a main building or in an accessory building located on the same lot with the main building, used for workers employed on the premises and not rented as a separate dwelling.

Carport: a roofed and usually wall-less shed projecting from the side of a building, used as a shelter for automobiles.

Certificate of Occupancy, Final: a document issued by the Town Manager or designee certifying that he/she reasonably believes a building, or part thereof, and its occupancy to be in compliance with the minimum standards of safety, as set forth in the Florida Building Code, prior to the building's occupancy and after its inspection and that said building is in conformity with all other applicable laws and regulations.

Certificate of Use: a document issued by the Town Manager or designee that the zoning use classification of any business, within any approved structure or building or unit therein, is allowed prior to its occupancy and after inspection of the premises and proof of compliance with all the requirements of the Town Code of Ordinances and all other applicable laws and regulations; provided, however, that no Certificate of Use shall be issued until it has been reviewed and approved by Town Manager or designee.

Clinic: an establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together in a business relationship. The term does not include a place for the treatment of animals.

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



Common area: a room or designated area within a building or complex of buildings zoned for residential use served by shared or public parking area, which is reserved for the exclusive use of the residents of the building or complex and their invited guests, and as an accessory use to the primary residential use of such buildings.

Conditional use: any use listed in Section 90-23 as a conditional use which would not be appropriate generally or without restriction throughout a particular zoning district, but would be appropriate if controlled as to number, area, location, or relation to the neighborhood.

Design Guidelines: Design Guidelines, as adopted by the Town of Surfside, intended to provide direction and suggestions for all development.

Detached Single-Family: One (1) dwelling unit, other than a mobile home, sharing no walls with another dwelling unit.

District: any section of the Town within which the zoning regulations are uniform. (See district map.)

Duplex, two-family dwelling: Two (2) dwelling units attached by a common party or firewall in one building.

Dwelling: a building or portion thereof, designed or used exclusively for residential occupancy.

Dwelling unit: a room, or group of rooms, occupied or intended to be occupied as separate living quarters by a single family.

Family: an individual or two (2) or more persons related by blood or marriage or a group of not more than three (3) unrelated persons (excluding workers employed by the household) living together as a single housekeeping unit in a dwelling.

Fence: a structure forming a physical barrier constructed of wood, aluminum, or other materials except chainlink or wire.

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

Floor area: the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. Basement space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

1. In particular, floor area includes:
 - a. Elevator shafts or stairwells at each floor.
 - b. Floor space used for mechanical equipment.
 - c. Floor space in penthouses.
 - d. Attic floor space (whether or not a floor has been laid) providing structural headroom of seven (7) feet six (6) inches or more.
 - e. Floor space in interior balconies or interior mezzanines.
 - f. Floor space in porches and pools enclosed with plastic, glass or permanent type of material.



- g. Any floor space used for residential use, no matter where located within the building.
2. However, the floor area of a building shall not include:
 - a. Basement space when used for parking of vehicles, as provided in the design standards for underground parking in this Code.
 - b. Accessory water tanks or cooling towers.
 - c. Uncovered steps and exterior balconies.
 - d. Interior balconies. The width of an interior balcony shall not be greater than the depth.
 - e. Covered or uncovered terraces, patios, breezeways, or porches which are open on two (2) sides.

Floor area ratio: the floor area of a building or buildings on any lot divided by the area of the lot.

Franchise chain: nationally recognized retailer or restaurant.

Frontage, street: the distance along a street line from one (1) intersecting street to another or from one (1) intersecting street to the end of a dead-end street.

Frontage, lot: the distance for which the front lot line and street line are coincident.

Garage, parking: a building or portion thereof designed or used for the temporary storage of motor-driven vehicles.

Garage, private: an accessory building, not exceeding nine hundred (900) square feet in floor area, designed or used for the storage of not more than four (4) automobiles.

Grade: the average datum or elevation of the crown of the road upon the street serving the lot or building site.

Height: the vertical distance from the grade, which is the average datum or elevation of the crown of the road upon the street serving the lot or building site, to the highest point of the roof.

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

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

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Indian Creek bulkhead line: the bulkhead line as defined in Section 14-101.

Interior balcony: a platform that is supported by the wall of a building that is surrounded by three sides of the building and open on one side.



Loading space: a space within the main building or on the same lot providing for the standing, loading, or unloading of trucks.

Lot: a parcel of land occupied or which may be hereafter occupied by a building, buildings and any accessory buildings, together with such open spaces and parking spaces or area as are required under this Article and having its principal frontage upon an officially approved street or place. "Lot" includes the word "plot" or "parcel" or "tract" or "site."

Lot area: the total horizontal area within the lot lines of the lot. In determining usable lot area in the H120 district, it shall be from the west lot line to the erosion control line and the north lot line shall be the north boundary and the south lot line shall be the south boundary.

Lot, corner: a lot abutting upon two (2) or more streets at their intersection.

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

Lot, depth of: the average horizontal distance between the front and rear lot lines, except where a lot abuts the ocean, Indian Creek or other established waterway; then the depth of the lot shall be the average horizontal distance between the front lot line and the erosion control line.

Lot, front: shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street.

Lot, interior: a lot other than a corner lot.

Lot of record: a lot which is part of a subdivision, the map of which has been recorded in the office of the Clerk of the Circuit Court of the county; or a parcel of land which became legally established and defined by a deed or act of sale.

Lot, through (double-frontage): a lot having a frontage on two (2) parallel or approximately parallel streets or places.

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

May: permissive

Multi-dwelling structure: a residential building on a plot, consisting of three (3) or more dwelling units, having at least three (3) common party walls with adjacent dwelling units, except for end or corner units.

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

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



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

Ocean bulkhead line: that bulkhead line as defined in Section 14-86.

Occupied: possession and use of a structure for its intended purpose. The words "used" or "occupied" include the words "intended," "designed" or "arranged" to be used or occupied.

Parking lot: an open, unoccupied area of land used or required for use for parking automobiles exclusively and in which no gasoline, oil, services, wash-racks or accessories are sold or no other business conducted.

Parking space, off-street: a paved area not in the street or alley and having an area of not less than nine (9) feet by twenty (20) feet, exclusive of driveways, permanently reserved for the temporary storage of one (1) vehicle and connected with a street or alley by a paved driveway which affords ingress and egress for an automobile without requiring another automobile to be moved.

Person: any individual, firm, partnership, joint venture, syndicate or other group or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator receiver or other fiduciary.

Pervious Area: Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water directly into the ground.

Place of business: any structure used for the purpose of exercising the privilege of engaging in business within the Town limits.

Place of public assembly: any area where individuals assemble, whether publicly or privately owned and maintained. Includes, but is not limited to, public assembly buildings, such as auditoriums, private clubs and lodges, community centers, clubhouses and theaters; and places of worship or other facilities that are used for prayer and assembly by persons of similar beliefs.

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

Restaurant: an establishment maintained and operated as a place where food is regularly prepared, served or sold for immediate consumption on or about the premises and every establishment preparing food to be called for, delivered to or taken out by customers.

Roof Deck: An open, unroofed floor structure used in conjunction with a principal building and installed on the roof of a building.

Setback: the minimum distance required by a zoning district that all structures shall be from front, side and rear lot lines. Setback includes the words "required yards" or "minimum required yards" and "minimum yards."

Shall: always mandatory and not merely discretionary.

Show window or display window: an area enclosed on one (1) or more sides by glass, adjacent to the public right-of-way, for the purposes of displaying signs and merchandise to the public. Where transparent glass constitutes part of a front or side of a building adjacent to the public right-of-way, all areas within five (5) feet of such glass shall constitute a show window.



Site plan: a drawing illustrating a proposed development of a lot or tract, in accordance with the specifications and requirements set forth in Section 90-19.8 and 90.20(3)(b).

Special exception: a use that would generally not be appropriate in the zoning district, which may be authorized by the Planning and Zoning Board if specific provisions and controls are applied.

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

Street: a public thoroughfare which affords the principal means of access to abutting property.

Streetline: a dividing line between a lot and the adjacent street.

Structure: anything constructed or erected, the use of which requires rigid location on the ground or attachment to something having a permanent location on the ground, including, but not limited to buildings, individual units within a building, trailers/construction trailers, signs, backstop for tennis courts, swimming pools, fences, screen enclosures, and pergolas.

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

Substantial improvement: any combination of repairs, reconstruction, alteration or improvements to a building, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the building. The market value of the building should be:

1. The appraised value of the building prior to the start of the initial repair or improvement;
2. Such other value as approved by the federal government or the state; or
3. In the case of damage, the value of the building prior to the damage occurring.

This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include any project for improvement of a building required to comply with existing health, sanitary or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions.

Suite-hotel: a hotel containing one or more suite-hotel rooms as defined below. A minimum of fifteen (15) percent of total gross building area shall be maintained as common or recreational areas. The building shall have central air conditioning or flush-mounted wall units; provided, however, no air conditioning equipment may face any street or body of water. The building shall not have open exterior walkways providing access to units. Provided that all conditions of this Code are met, a suite-hotel may be a timeshare property as defined in F.S. Ch. 721.



Suite-hotel room: a hotel room in a suite-hotel containing not less than five hundred twenty-five (525) square feet of net useable interior space and shall contain kitchen facilities.

Swimming pool: any permanent structure containing a body of water intended for recreational purposes, including a wading pool.

Townhouse: Two (2) or more dwelling units attached by a common party or fire wall with each unit having two (2) or more stories.

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

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

Wall: a structure or device forming a physical barrier that is constructed so that the vertical surface is closed to prevent the passage of vision in a horizontal plane.

Weep Holes: small holes in a retaining wall or other ornamental wall where it may be necessary to drain off excess water to avoid pressure build-up and ponding of water.

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

Yard, front: a yard across the full width of the lot extending from the front line of the building to the front street line of the lot.

Yard, rear: a yard extending the full width of the lot between the main building and the rear lot line.

Yard, side: a yard on the same lot with the building between the main building and the adjacent side of the lot, and extending from the front yard to the rear yard thereof.

Sec 90.3

Enforcement, interpretation, purpose and conflict.

1. The Town Manager or designee shall designate personnel who shall have the authority to enforce the provisions of this Code.
2. Where it is found that any of the provisions of this Code are being violated, enforcement proceedings may be initiated against the real property owner, the tenant if applicable and any other person violating the provisions of this Code. Any enforcement procedure authorized by the Town of Surfside Code of Ordinances or state law may be used to enforce the provisions of this Code. It shall be at the discretion of the Town Manager or designee to determine which method of enforcement is appropriate and whether more than one method of enforcement should be brought.
3. In addition to enforcement by the Town Manager or designee, the provisions of this Code may be enforced by the Surfside Police Department if appropriate.
4. Further, the Town Commission may direct the Town Attorney to bring an action for injunctive relief in appropriate circumstances.



5. Where this Code includes regulations on the same point as contained in any other law or ordinance, the provisions of this Code shall govern; except that where the regulations of the other law or ordinance are more restrictive than those of this Code, the other shall govern.
6. In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants, or other agreement, provided however, that where these regulations impose a greater restriction upon the use of buildings or premises or upon the height of buildings, or require larger open spaces or yards or lot areas than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of these regulations shall govern.

Sec. 90.4

Policy and objectives.

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

Sec. 90.5

Compliance with regulations.

1. Purpose: Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.
2. Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.
3. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building or part thereof be used except for a use permitted in the district in which the building is located.
4. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered to exceed the height limit herein established for the district in which the building is located.



5. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the area regulations of the district in which the building is located.
6. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the off-street parking and loading regulations of the district in which the building is located.
7. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered except in conformity with the floor area regulations of the district in which it is located.
8. No building shall be erected or moved except in conformity with the established flood criteria, as indicated on the most current edition of the Federal Flood Insurance Rate Maps and in Chapter 42, Article II, applicable to the lot on which the building is located.
9. No building shall be erected or enlarged after the effective date of these regulations, which reduces any level of service standard established in the Town's adopted Comprehensive Plan.
10. All improved properties shall have their street number displayed and clearly visible from the street on which the front entrance of the building faces. In the SD-B40 and the H120 districts, all properties additionally shall have their street numbers displayed and clearly visible from the rear of the property.
11. Nothing in this chapter shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:
 - a. A governmental act of development approval was obtained prior to the effective date of this Chapter or prior to the effective date of an amendment to this Chapter; and
 - b. Upon which the property owner has detrimentally relied, in good faith, by making substantial expenditures; and
 - c. That it would be highly inequitable to deny the property owner the right to complete the development.

90.5.1 Only one (1) main building and the accessory buildings and uses customarily incident thereto shall be located on any single lot. In the case of single-family dwellings, only one (1) kitchen shall be provided on each lot.

Sec. 90.6 Zoning in progress, applicability, temporary hold on permits and Licenses

1. Purpose. The zoning in progress doctrine ("zoning in progress") generally allows the Town to apply, on a retroactive basis, if necessary, changes to zoning regulations or to the zoning district status of property, to previously approved or currently in process development applications. Additionally, the zoning in progress allows a temporary hold on permits and licenses if there is a change in zoning, which is already in progress that would affect the permit or license.
2. Initial adoption of zoning regulations. Zoning in progress shall be applied to the initial adoption of this Section in the following manner:
 - a. Zoning in progress shall not be applied to the extent that vested rights are established.



- b. Zoning in progress shall apply to applications for development approvals, which were filed with the Town after the cut-off date established in (2) above. Upon the adoption of any impact fees, all applicants will be responsible for the remittance of same to the Town, irrespective of time of filing of the application, up to and including to the time of issuance of a building permit.
 - c. Zoning in progress shall not apply to the grant of any moratorium waiver specifically granted by the Town Commission.
3. Future amendments to zoning regulations. When an amendment to the zoning regulations or in the application of any particular zoning district classification to land is being considered, the Town may impose a temporary hold on any development applications pending before the Town with respect to the area of the zoning regulatory text which is the subject of the amendment. The hold shall commence upon the date that the notice of zoning in progress is published in a newspaper of general circulation in the Town and shall continue in effect for a period from the date of notice until the subject change, with or without amendments, shall have been approved or disapproved by the Town Commission or for a period of three (3) months, whichever is sooner, unless such development application would be in conformity with the more restrictive of the existing zoning district status or the zoning district regulations as compared to the proposed zoning district status or zoning district regulations. An affected person may appeal the Town staff's application of this provision to the Town Commission for review by the Town Commission by filing a notice with the Town Manager.

Sec. 90.7

Buildings under construction.

Any building or structure for which a lawful building permit has been issued, and the construction of which has been started prior to the effective date of the ordinance from which this chapter was derived may be completed and used in accordance with the plans and specifications upon which such building permit was granted, provided such construction is completed within one (1) year after the effective date of the ordinance from which this chapter was derived.

Sec. 90.8

Outstanding permits.

- 1. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid building permits, authorizing the construction of buildings, structures, additions or alterations, the use or construction of which do not conform to the requirements of this chapter, such permits shall be void unless actual construction work, excluding grading or excavating, is substantially underway on that date and the underlying vested rights to construction are vested. Vested rights are defined in 90-5.11.
- 2. Where, on the effective date of the ordinance from which this chapter was derived, there are outstanding valid permits, authorizing the use of land or buildings without construction work, and where such use is not permissible under the terms of this chapter, such permit shall be void unless the use is actually in operation on that date.

Sec. 90.9

Relationship to the comprehensive plan.

All regulations contained in this chapter and the maps attached thereto shall be amended, supplemented or changed only in compliance with Florida law and shall be consistent with the Comprehensive Plan.



Sec. 90.10 Provision for storm drainage.
No structure shall be constructed or enlarged unless it meets all requirements of Chapter 34 regarding storm drainage management. Such requirements shall apply to all accessory buildings or structures or uses serving such structures.

Sec. 90.11 Charges for consulting services established.

1. Except for applications by a single-family homeowner in the H30A and H30B districts, the Town Manager or designee, in the review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or environmental consultant or professional(s) employed by the Town as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultant shall be in accord with the charges customarily made for such services in Miami-Dade County, and pursuant to an existing contractual agreement by and between the Town and such consultant. Charges made by the Town shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid on submission of a Town invoice.
2. Unless prohibited by law, the applicant shall reimburse the Town for the cost of such consultant or employed professional services upon submission of a copy of the invoice, within thirty (30) days of submission of a copy of the invoice. These fees are in addition to any and all other fees required by other law, rule or regulation of the Town Code.

Sec. 90.12 Escrow accounts.
At the time of submission of any application or thereafter, it is required that an escrow account be established, from which withdrawals shall be made to reimburse the Town for the cost of professional review services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the Town Manager, based on evaluation of the nature and complexity of the application. The applicant shall be provided with copies of any Town invoice for such services as they are submitted to the Town. When the balance in such escrow is reduced to one-third (1/3) of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement for such additional deposit, the Town may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding. A building permit, Certificate of Use and occupancy or other action shall not be issued unless all professional review fees charged in connection with the application have been reimbursed to the Town. Once all pertinent charges have been paid, the Town shall refund to the applicant any funds remaining on deposit.

Sec. 90.13 Collection of fees.
The Town Manager or designee shall collect all fees required pursuant to this Article.

Article II Administration and Enforcement

Division I Planning and Zoning Board



Sec. 90.14

Created.

There is created a Town Planning and Zoning Board.

Sec. 90.15

Membership/quorum, minimum qualifications, officers, terms of officers, vacancies, general regulations, recommendations, expenditures, indebtedness.

1. Membership/quorum: The Planning and Zoning Board membership and quorum requirements for zoning matters and design review matters are as follows:
 - a. Zoning matters: The Planning and Zoning Board, when performing its zoning functions, shall consist of five (5) members. One of the board members must be a Florida licensed architect. Each Commissioner shall be entitled to one (1) Board appointment, not subject to majority approval. The Town Commissioner responsible for appointing a Florida licensed architect shall rotate through the Commission beginning with Seat 1. Three (3) members present at the Planning and Zoning Board meetings shall constitute a quorum.
 - b. All Board Matters: One Town Commissioner shall be a liaison, non-voting representative without a vote at all Planning and Zoning Board meetings.
2. Minimum Board Member Qualifications: All board members must have been a Town resident for a minimum period of one (1) year, except for the licensed architects, including the Florida licensed landscape architect, if applicable, who must have been a Town resident for a minimum period of six (6) months. The Florida licensed architects must have a minimum of five (5) years of practical experience in the field of landscape design. Notwithstanding this minimum number of required architects satisfying these qualifications, including residency requirements, the Town Commission at its discretion, may consider and appoint architectural members who have at least three (3) years minimum experience as a licensed architect within the State of Florida.
3. Officers: The Board shall elect one (1) of its members as chairman and one (1) of its members as vice-chairman, at its first regular meeting in April of each year. In the event of the resignation, removal, or inability of the chairman to serve, the vice-chairman shall succeed to the chairman position for the unexpired term; and the Board shall, thereupon, elect one (1) of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In the chairman's absence, the vice-chairman shall preside. The chairman shall submit all Board reports and recommendations to the Town Commission, by and through the chairman, vice-chairman or the Town Commission liaison member. The Town shall provide a secretary for the Board and the Town Clerk shall be custodian of all records, books and journals of the Board.
4. Board Member Term(s): The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the Board as provided in Paragraph (e) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed.



5. Vacancies: A vacancy shall exist: (1) on the date that any member ceases to possess the minimum required membership qualifications provided herein; or (2) when a board member has been absent from three (3) consecutive regularly convened board meetings or has been absent from five (5) regularly convened board meetings within a board year. Vacancies on the Board shall be filled by appointment for the unexpired term in the same manner as original appointments are made.
6. General regulations governing members: Board members shall be appointed in accordance with all applicable state, county and Town ethics laws, rules and regulations. Appointed members of the Board shall not, during their term, hold any other public office, paid position or serve on any other board under Town government, except as a temporary board member, or that of a voluntary fireman.
7. Expenditures; indebtedness: The Town Commission may authorize the expenditure by the Planning and Zoning Board of such funds as the Town Commission may deem necessary to perform the requirements of this chapter. The Town Commission may appropriate from the general fund as set up in the annual budget and such sums as it may from time to time authorize the Board to expend. The Board may not incur indebtedness without prior Commission approval.

Sec 90.16

Meetings: Board Year; Timeframe; Order of Presentation; Location.

1. Board Year: The Board year shall commence on the last Thursday of April in each year.
2. Meetings on Zoning Matters/Timeframe: Regular board meetings for zoning matters shall be held on the last Thursday of each month. The chair may call special meetings and may cancel or continue meetings as may be necessary.
3. Meetings on Design Review Matters/Timeframe: The Board shall meet as needed on design review matters. The chairman may call special meetings and may cancel or continue meetings as may be necessary.
4. Order of Presentation for Zoning Matters and Design Review Matters: In order to avoid unnecessary project costs and delays, the Board shall address and finalize each project zoning matter prior to initiating each project design review, to the extent applicable.
5. Location of All Board Meetings: All board meetings shall be held in the Town Hall or Community Center.

Sec 90.17

Powers and Duties.

1. Zoning Matters: The Planning and Zoning Board shall act as an advisory board to the Town Commission on zoning matters and design review matters. The Boards' powers and duties are as follows:
 - a. To perform its responsibilities as the Local Planning Agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - b. To review and make recommendations to the Town Manager and the Town Commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - c. To review and make recommendations to the Town Commission, on applications pertaining to site plans (if applicable) zoning changes,



special use permits, conditional use variances vested rights and any other zoning applications;

- d. To conduct such studies and investigations required under the Town Code and/or requested by the Town Commission; and
- e. The Planning and Zoning Board shall have such other duties pertaining to zoning matters as prescribed by law, this Section and the Town Code.

2. Design Review: The Planning and Zoning Board shall conduct a design review for all structures to be constructed and renovated within Town limits on the terms outlined below.

Sec 90.18

Design Review Board.

The Planning and Zoning Board, when performing its design review functions shall serve as the Design Review Board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the Commission and two (2) additional Florida licensed architects, one (1) of which may be a Florida licensed landscape architect. Both of these architects shall be appointed by a majority of the Town Commission. Four (4) members present at the Planning and Zoning Board design review meetings shall constitute a quorum and at least one (1) of the four (4) members shall be a licensed architect.

- 1. Purpose. This Section is intended to promote excellence in architectural and urban design; preservation of the Town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, the Design Review Board is hereby created to review and make advisory recommendations to the Planning and Zoning Board as to whether the design of new developments and/or improvements within the Town are consistent with and in conformance with the Design Guidelines set forth in the Town Code. The Design Guidelines are attached thereto as Exhibit A provided that the Town Commission may amend said Guidelines from time to time via Resolution. The Guidelines as amended, shall govern and be applied as fully set forth herein.
- 2. Design Review Procedure:
 - a. All applications for new developments or improvements that are subject to the Town's adopted Design Guidelines shall be referred to the Board for review and consideration.
 - b. The Board shall review each application whether for development of single family, multi-family, commercial or other districts for conformity with the Town's adopted Design Guidelines and recommend the application to the Planning and Zoning Board for approval, approval with conditions, or disapproval of the application. No applicant shall be required to appear before the Design Review Board more than twice per application.
 - c. Meetings held by the Board for review and recommendations of applications shall be arranged to permit participation by the person or group making the application or request and representatives of such person or group, if desired. Architectural plans and drawings of the building facades, lists of finish materials and other information necessary to provide adequate insight into the proposed development/improvement shall be provided to the Board by the person or group making the proposal or request.



3. Design Review application fees are set forth in the Town designated fee schedule.
4. All meetings of the Design Review Board shall be publicly noticed.

Sec. 90.19
90.19.1

Single-family and two-family development review process

Permits. No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a building permit from the Building Official. Such permit shall require conformity with the provisions of these regulations. When issued, such permit shall be valid for a period of one hundred eighty (180) days. However, the Town Manager or designee may grant an extension to the permit due to an uncontrollable act of nature of up to one hundred eighty (180) days.

90.19.2

The Building Official reviews all applications for building permits or certificates of occupancy for compliance with the provisions of the Zoning Code and all other applicable codes. The Building Official shall issue a building permit if the applicant demonstrates that the proposed development is in compliance with all applicable codes and in compliance with any and all development orders issued in connection with the project, and that all fees have been paid.

90.19.3

Permit Card. Upon approval of plan specifications and application for permit and payment of required fees, the Building Official shall issue a permit. The Building Official shall issue a permit card for each permit which shall bear the description of the property, identify the work being done, identify the owner and contactor and other pertinent information, and such card shall be maintained in a conspicuous place on the premises effected there by the hours of work and available on demand for examination.

90.19.4

Permit Requirements. The Florida Building Code as amended is hereby adopted as the regulation governing the construction of buildings and structures in the Town. All qualified applicants desiring a permit to be issued by the Building Official as required shall file an application in writing on a form provided by the Town. No development shall occur until and unless the Building Official has issued a building permit.

90.19.5

Design Guidelines – The Town has adopted Design Guidelines intended to provide direction and suggestions for all development. The purpose of the Design Review Board is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the Town’s adopted Guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.

90.19.6

Single-family and two-family development shall be reviewed by the Design Review Board.

90.19.7

The following shall be exempt from Design Review Board review, however, the design guidelines shall be followed:

1. Interior or rear yard fences
2. Interior renovations
3. Awnings
4. Screens
5. Driveways
6. Re-roofs



90.19.8

The following are required for submittal to the Design Review Board:

1. Application Form: Each application shall describe the land on which the proposed work is to be done by legal description, and address shall show the use or occupancy of the building or structure; shall be accompanied by plans and specifications as required; shall state the value of the proposed work; shall give such other information as may reasonably be required by the Town Manager or designee and the Florida Building Code; shall describe the proposed work and shall be attested to by the applicant and/or property owner.
2. Ownership affidavit
3. Survey less than one (1) year old. A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
4. Two (2) full-sized sets of complete design development drawings (24 X 36 sheets) signed and sealed by a Registered Architect. Eight (8) reduced sized (11 X 17) copies of the plans.
5. Surrounding Context:
Provide recent photographs of the subject property and of all abutting, diagonal and fronting properties, as visible from the street.
6. Site Plan (Minimum scale of 1" = 20'):
 - a. Show entire parcel(s) with dimensions and lot size in square feet
 - b. Show existing and proposed buildings with square footage
 - c. Show any buildings to be removed
 - d. Show all setbacks
 - e. Show dimensions and locations of all existing and proposed right-of-ways, easements and street frontage, including sidewalks, curb and gutter and planting strips
 - f. Show all existing and proposed site improvements, including, but not limited to, all utilities, retaining walls, fences, decks and patios, driveways and sidewalks, signs, parking areas, and erosion control features
 - g. Show the location of all existing and proposed trees, vegetation, palms and note tree species
 - h. Show locations and dimensions of parking spaces and lot layout
 - i. Show driveway entrance width and setbacks from property line
7. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - a. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s). They should include, at a minimum:
 - b. All exterior materials, colors and finishes, keyed to samples provided
 - c. Roof slopes and materials and color
 - d. Detail of doors, windows, garage doors
 - e. Lighting locations and details
 - f. Dimensions of structure(s) – height, width, and length



- g. Deck, railing, stairs details including materials, colors, finishes, and decorative details
- h. Exposed foundation treatment
- i. Gutters and eaves
- j. Abutting structure heights

90.19.9 Effective period of Design Review Board approval. An approval from the Design Review Board shall be effective until the development is completed except that if, after twenty-four (24) months from the date of the approval by the Design Review Board a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.

90.20 **Development Review Requirements for submittals other than single-family and two-family**

1. Generally. Review and approval of a site plan by staff reviewing agencies, the Design Review Board and the Planning and Zoning Board is required prior to any development of land in the Town.
2. Process. Submit plans (sets to be determined by Town staff as appropriately needed), which are distributed to the staff members of the Development Review Group (DRG).
 - a. The DRG member shall review the site plan and prepare comments. The comments shall be forwarded to the Town Manager or designee. The comments shall be addressed by the applicant, if applicable. The Town Manager or designee shall hold a Development Review Group meeting with appropriate Town staff and the applicant to discuss the comments.
 - b. After the revisions and upon review of the final site plan by the DRG members, the site plan will be scheduled for the next available Town Design Review Board and Planning and Zoning Board meetings. If possible, the Planning and Zoning Board meeting and the Design Review Board meeting should be held on the same date. The materials required under 90.19.8 should not be duplicated for both the Planning and Zoning Board meeting and Design Review Board meeting. They shall be considered one (1) submittal package.



3. Submittal requirements for DRG, Planning and Zoning and Design Review Board are provided below.
 - a. Application. An application is required for site plan approval. This application shall include the following where applicable:
 - b. Site Plan. A site plan, the overall size of which shall be 24" x 36", drawn at a scale not less than 1" = 20' and shall include the following:
 - i. A legal description, including the section, township, and range or subdivision lot and block.
 - ii. Site boundaries clearly identified, and ties-to-section corners.
 - iii. Proposed uses.
 - iv. Location and height of all structures and total floor area with dimensions to lot lines, and designations of use.
 - v. Building separations.
 - vi. Vehicular circulation system for cars, bicycles, and other required vehicle types, with indication of connection to public rights-of-way. Location of all parking and loading areas.
 - vii. All adjacent rights-of-way, with indication of ultimate right-of-way line, center line, width, paving width, existing median cuts and intersections, street light poles, and other utility facilities and easements. Location of all cross streets and driveways within three hundred fifty (350) feet of property limits.
 - viii. Pedestrian circulation system.
 - ix. Provider of water and wastewater facilities.
 - x. Existing and proposed fire hydrant locations.
 - xi. The following computations:
 - Gross acreage.
 - Net acreage. Gross acreage covered by the property excluding road easements and rights-of-way, if any.
 - Number of dwelling units and density for residential uses only.
 - Square footage of ground covered by buildings or structures and designation of use.
 - Required number of parking spaces.
 - Number of parking spaces provided.
 - Pervious, impervious and paved surface, in square footage and percentage.
 - xii. Site Plan location sketch, including section, township, and range, showing adjacent property owners.
 - xiii. Geometry of all paved areas including centerlines, dimensions, radii, and elevations.
 - xiv. Location of trash and garbage disposal system and provisions for accessibility to garbage trucks.
 - xv. Loading areas and provisions for accessibility to vehicles of the required type.
 - xvi. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type.
 - xvii. Number of sets required shall be determined by Town Staff.
 - xviii. Other such information as required by the Town.



- c. Survey. A survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). The survey shall be prepared by a Florida registered land surveyor, certified as to meeting the requirements of the applicable Section of the Florida Administrative Code, reflecting existing natural features, such as topography, vegetation, existing paving, existing structures, and water bodies.
- d. Landscape Plan and Irrigation Plan. Landscape plan and irrigation plan with landscape calculations, existing tree survey with indication of existing native vegetation that will be preserved, as required herein.
- e. Lighting Plan. Lighting plan showing photometric measurements, lighting details and spillage onto adjacent properties and rights-of-way.
- f. Sign Plan for all signs which will be on site.
- g. Pavement markings and traffic signing plan.
- h. Schematic water and sewer plan. Plans shall include the location and size of all mains and lift stations (Note: Final engineering plans must be submitted and approved).
- i. Paving and drainage plans. Plans shall show the location of all drainage features and retention areas, if any.
- j. Architectural Elevations (Minimum scale of 1/8" = 1'):
 - i. Show separate elevations of all sides of existing and proposed buildings with all dimensions, including height.
 - ii. Label exterior materials, color, texture and trim, roof material, roof color and pitch, windows, doors, screens, skylights and all exposed mechanical equipment and screening
 - iii. Provide color elevations, showing all material finishes, textures and landscaping for all elevations of the proposed building(s) and structure(s), which should include at a minimum:
 - All exterior materials, colors and finishes, keyed to samples provided
 - Roof slopes and materials including specifications and color
 - Detail of doors, windows, garage doors
 - Dimensions of structure(s) – height, width, and length
 - Deck, railing, stairs details including materials, colors, finishes, and decorative details
 - Exposed foundation treatment
 - Gutters and eaves
- k. Signs
 - i. Show dimensioned locations and mounting details of signs on building elevations and locations of signs on site plan
 - ii. Note colors, materials, lighting and dimensions
 - iii. Show dimensions and square footages (proposed and existing)
 - iv. Identify materials and colors – background, trim/border, and copy
 - v. Show fonts and graphics



90.20.1 Site Plan amendments. If an applicant's development plans change after previously receiving final site plan approval, the applicant may file an application for revised final site plan approval with the Town Manager or designee. However, no application will be considered for property that is the subject of pending Code enforcement action by the Town or that has an unpaid Code enforcement lien.

1. Site Plan Amendment Criteria.
 - a. Amendments may not be contrary to a condition of the original site plan approval or any previously approved amendment (except that conditions that were imposed for a particular use may be lifted if that use is deleted from the site plan).
 - b. Amendments may not change the character or location of any structure on the property that is not part of the main building.
 - c. Amendments may not alter the location of any points of ingress or egress from the public right-of-way, nor alter any vehicular or pedestrian flows.

90.20.2 Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require site plan approval, however, may require Design Review Board approval:

1. The deposit and contouring of fill on land.
2. Construction of a single-family home on an existing single-family lot.
3. Construction of a single duplex on an existing single lot.

90.20.3 Effective period of final site plan approval. An approved final site plan shall be effective until the development is completed except that if, after twenty-four (24) months from the date the site plan is approved by the Planning and Zoning Board a building permit for a principal building has not been issued and remains in effect, the site plan shall be null and void.

1. Extensions for good cause, not to exceed a total of one (1) year for all extensions, may be granted by the Town Commission, at its sole discretion, provided the applicant submits a request in writing to the Town Manager or designee in advance of the expiration of the original approval, setting forth good cause for such an extension. For the purpose of this Section, a building permit for a principal building shall cease to be in effect once required inspections have lapsed or once a certificate of completion or Certificate of Occupancy is issued. In those cases where a development includes more than one (1) principal building and it is contemplated that the development shown on a site plan will not be completed with a building permit for a principal building continuously in effect, approval by the Planning and Zoning Board of a phasing schedule must be obtained as part of the overall site plan approval. Amendments to the original site plan shall not extend this time frame unless an extension is expressly granted by the Planning and Zoning Board as a part of the approval of the amendment.
2. All approvals which have been granted prior to the effective date of this chapter, shall be null and void and of no further force or effect if not utilized within two (2) years after the effective date of this chapter, unless vested rights are demonstrated pursuant to Section 90.5.11 of the Zoning Code. The foregoing provision of this paragraph shall not apply if the governmental resolution granting the approval expressly established a specific time limitation for utilizing the approval. In such instances, the time limitation established by such resolution shall prevail.



- Sec. 90.21 Certificate of occupancy**
1. No vacant land shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Official.
 2. No premises shall be used and no buildings hereafter erected or structurally altered shall be used, occupied, or changed use until a Certificate of Occupancy and compliance shall have been issued by the Building Official, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
 3. Certificates of occupancy and compliance shall be applied for within ten (10) days after the erection or structural alteration of such have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Building Official.
- Sec. 90.22 Changes and amendments**
- The Town Commission may, from time-to-time, amend, supplement, or change by ordinance, the boundaries of the districts or the regulations herein established.
- 90.22.1 Reconsideration of district boundary changes. When a proposed change in district boundaries has been acted upon by the Town Commission and disapproved or failed of passage, such proposed change, in the same or substantial similar form, shall not be reconsidered by the Town for a period of at least one (1) year following the date of such action.
- 90.22.2 Withdrawal of a petition. Any petition for amendment, supplement, or change may be withdrawn by a request in writing from the petitioner at any time before a decision of the Town Commission, but if withdrawn after advertisement for a public hearing or posting of the property, the same or a substantially similar petition covering the same property shall not be resubmitted, except by the Town Manager or a member of the Town Commission, sooner than one (1) year after date established for the prior hearing. Filing fees shall not be refunded upon withdrawal.
- State law references:** Zoning amendments, F.S. §§ 163.3194, 166.041.
- Sec. 90.23 Conditional uses**
- 90.23.1 Purpose. The purpose of this Section is to provide a process which is designed to determine if certain uses, hereafter referred to as conditional uses, should be permitted. Special review of conditional uses is required because such uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the community, but because of the nature of the use and possible impact on neighboring properties, require the exercise of planning judgment on location and site plan.
- 90.23.2 Conditional uses enumerated. The following uses may be approved by the Town Commission as conditional uses in any district in which they are specifically allowed, as indicated within the provisions for individual zoning districts. Approval of such conditional use(s) in accordance with the procedures and standards of this Section shall only be granted where it has been clearly shown that the public health, safety, morals, and general welfare will not be adversely affected; that adequate off-street parking facilities, in accordance with this chapter, will be provided; and that necessary safeguards will be provided for the protection of surrounding property:
1. Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.



2. Off-street parking lots and garages.
 3. Public and governmental buildings.
 4. Public utilities or public service uses, buildings, structures and appurtenances thereto.
 5. A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.
- 90.23.3 Site plan required. Each application for approval for a conditional use shall be accompanied by a site plan. Such site plan shall be prepared in accordance with the provisions of Section 90.20(3)(b). In addition, each application shall be accompanied by a letter and survey indicating compliance with all of the provisions of Section 90.20(3)(b), and any additional information as may be required to permit a determination of the exact nature of the proposed use and its effect on surrounding properties, the adjacent neighborhood, and its consistency with the Town's adopted Comprehensive Plan.
- 90.23.4 Procedures; conditional uses.
- Application and fee shall be submitted to the Town for a Conditional Use review and are subject to the requirements of Section 90.23. Applications for approval of a conditional use shall be heard by the Planning and Zoning Board for a recommendation to the Town Commission. The Planning and Zoning Board's report may contain recommendations regarding conditions which should be imposed by the Town Commission in approving the conditional use. The Town Commission may establish these and/or additional conditions for an approval by a simple majority vote.
- 90.23.5 The approval of a Conditional Use shall be void if the applicant does not obtain a building permit or other permit required to implement the Conditional Use within twenty-four (24) months after the granting of the Conditional Use. An applicant who has obtained approval of a Conditional Use may request an extension of this time period within the original approval period. The Town Commission may grant one or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.
- Sec. 90.24 No-fee operational licensing of not-for-profit places of public assembly**
A place of public assembly operated by a not-for-profit organization qualified under Section 501(c)(3) of the Internal Revenue Code and registered pursuant to Chapter 496, Florida Statutes, shall not be occupied until it obtains an operational license from the Town.
- 90.24.1 The operator of a qualifying place of public assembly shall obtain a form and submit an application for an operational license by contacting the Department of Building and Zoning. No fee shall be charged by the Department.
- 90.24.2 The Town Manager or designee shall notify the holder of any operational license, in writing, of the Town's intent to revoke an operational license if he or she determines that the following circumstances exist:
1. The Town has reasonable grounds to believe that the premises are being used in a manner that is inconsistent with, or contrary to, the provisions of the Zoning Code or any other applicable code or statute.



2. In the event of a conviction of any director of the organization holding the operational license by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the operation.
3. It has been ascertained that the holder of the operational license falsified any information on its application.
4. The holder of the operational license, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized law enforcement officer or code enforcement officer to inspect the premises during normal operating hours for the purpose of investigating a complaint which has been filed against the operation.

90.24.3 The notice of intended revocation of an operational license shall state the following:

THE HOLDER OF THE OPERATIONAL LICENSE SHALL HAVE TEN (10) DAYS FROM THE DATE OF RECEIPT OF THIS NOTIFICATION EITHER TO BRING THE PREMISES INTO COMPLIANCE OR TO REQUEST A HEARING, IN WRITING, BEFORE THE TOWN COMMISSION. IF THE VIOLATION IS NOT CURED OR IF NO WRITTEN REQUEST FOR A HEARING IS RECEIVED BY THE TOWN OF SURFSIDE WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTIFICATION BY THE CERTIFICATE HOLDER, THE OPERATIONAL LICENSE SHALL BE CONSIDERED REVOKED.

90.24.4 If the holder of the operational license requests a hearing before the Town Commission, the operational license shall remain in effect during the pendency of the action before the Town Commission.

90.24.5 The original of the operational license shall be posted upon the premises at all times.

Sec. 90.25 Home-based and common-area based assembly uses

90.25.1 Applicability. The standards set forth in this subsection shall apply to any proposed or existing home-based or common-area based assembly use located in the following residential zoning districts: H30A, H30B, H30C, H40 and H120.

90.25.2 Home-based and common-area based assemblies are permitted, whether for social, religious, or other reasons, as an incidental accessory use to the principal residential use.

90.25.3 Frequency of home-based and common-area based assembly uses.

Assemblies that occur four (4) or more times per month for two (2) consecutive months will be deemed to be beyond the scope of the accessory use and shall not be permitted.

90.25.4 Parking standard.

1. Home-based assembly uses. A home-based assembly use which results in an additional eleven (11) vehicles being parked near the dwelling unit at each assembly will be deemed to be beyond the scope of the accessory use and shall not be permitted. Vehicles parked legally on the site of the home-based assembly, or upon another parcel pursuant to a lawful agreement with the owner of such parcel, shall not be counted toward the eleven (11) vehicles.
2. Common-area based assembly use. A common area-based assembly use which results in an additional six (6) vehicles being parked near the common-area based assembly use will be deemed to be beyond the scope of the accessory use and shall not be permitted. Additionally, the



parking demand created by such assemblies shall not exceed the supply of parking spaces provided within the shared guest or visitor parking areas allocated to common-area functions.

Sec. 90.26

Home Offices

1. Home offices are permitted in residential areas of the Town provided that:
 - a. Users of the home office are residents of the premises;
 - b. The use of the dwelling unit or residence for a home office is clearly incidental and secondary to its use for residential purposes. No outside display, storage or use of the land is permitted.
 - c. There is no change in the outside appearance of the building or premises as a result of the home office;
 - d. No equipment is used or stored on the premises that creates noise, vibration, glare, fumes, odors or electrical interference, detectable to the normal senses outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio, television set or other electronic device off the premises or causes fluctuation in line voltage or other similar nuisance;
 - e. No trash, sewage, solid waste or other waste than normal household trash and recyclables is generated. No commercial dumpsters or trash service shall be allowed;
 - f. No retail or wholesale sales on the premises shall be permitted except for telephone, mail, delivery service, internet order sales or similar electronic sales;
 - g. No traffic is generated by such home office in greater volume than would normally be expected in the neighborhood for residential purposes. No customers, clients, business associates, sales persons, invitees, assistants, outside employees, independent representatives, or the like shall visit the dwelling unit or residence for a business purpose;
2. A home office shall not be construed to include among other uses, personal services, such as the practice of medicine, chiropractic medicine, dentistry, massage, cosmetology, barbershops, beauty parlors, tea rooms, food processing for sale, kennels, animal grooming, radio and television repair, furniture refinishing or building, cabinet making, boat building, marine charter or towing service, auto servicing or rebuilding and repair for others, metal fabrication or cutting employing welding or cutting torches, or any other occupation requiring state mandated inspection of the premises;
3. No more than one (1) vehicle related to the home office shall be permitted upon the premises. Such vehicle must be twenty (20) feet or less in overall length and must be parked off any public right-of-way. All exterior storage of cargo, equipment or other materials on such vehicle shall be shielded from view at all times when such vehicle is located on a residential lot;
4. The home office activities shall be compatible with the residential use of the property and surrounding residential units;
5. The home office activities shall not involve any illegal activities;



6. The home office activities shall not result in any increase in demand on Town services as compared to the average typical residence of the same size.
7. No signs, lights, lawn markers, postings, advertising, etc. which are not compatible with the residential appearance and use of the property shall be located on or about the residence or unit.
 - a. The Town Manager or designee shall determine whether the home office meets the established criteria as set forth in Section 1 above. The determination may be appealed to the Planning and Zoning Board whose ruling shall be final and may be appealed to the Circuit Court.
 - b. A local business tax receipt must be obtained from the Town for home offices.
 - c. Nothing contained herein shall be deemed to authorize, legalize or otherwise permit a home based business that is otherwise prohibited by a legally enforceable covenant, association document or other instrument or restriction on such use pertaining to a residential unit.

Sec. 90.27

Certificates of Use

1. It is hereby deemed unlawful for any person to open or operate any business and/or occupy any structure within the Town limits for the privilege of engaging in any business prior to obtaining the required Certificate of Use.
2. No structure used for the purpose of exercising the privilege of doing business within the Town limits shall be used or occupied or any existing use enlarged, or any new use made of any land, body of water, or structure, without first obtaining a Certificate of Use therefore from the Town Manager or designee as may be required herein.
3. The Certificate of Use shall be renewable annually for all existing, new, and future business use classifications on any land, body of water, and or in any structure including the individual units within said structure within the Town limits.
4. A separate Certificate of Use shall be obtained for each place of business and for each corporation and/or legal entity within each place of business.
5. It shall be the duty of every person owning, operating, or purchasing any business within the Town limits to comply with the requirements of this division prior to opening any business and/or occupying structure.

90.27.1

Term of Certificate of Use and transfer.

1. No Certificate of Use shall be issued for more than one (1) year, and all certificates shall expire on September 30 of each year.
2. Certificates of Use may be issued for a fractional portion of a year, but no Certificate of Use shall be issued for a fractional portion of a month.
3. When there is a change of use, business, business ownership or business name the application for Certificate of Use shall be treated as new application.

90.27.2

Due date for payment of Certificate of Use fee.

1. Certificates shall be available for issuance by the Town, commencing on August 1 of each year. Both the renewal and renewal fee shall be due on October 1 of each year. If October 1 falls on a weekend or holiday, the



fee shall be due and payable on or before the first working day following October 1. Those certificates not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten (10) percent) for the month of October, plus an additional five (5) percent penalty for each month of delinquency thereafter until paid; provided, that the total delinquency penalty shall not exceed twenty-five (25) percent of the fee due.

2. Any person exercising the privilege of engaging in or managing any business without first obtaining a Certificate of Use, if required under this division, shall be subject to a penalty of twenty-five (25) percent of the fee determined to be due, in addition to any other penalty provided by law or ordinance.

90.27.3

Fees.

Fees to be charged for the purpose of administering this division are hereby imposed as follows:

1. The Town Manager or designee shall collect fee. No origination fee shall be charged for a Certificate of Use to any business within the Town limits that has a current and appropriate Certificate of Use from Miami-Dade County or the Town, but the annual renewal fee shall be charged accordingly.
2. The Town Manager or designee shall collect and annual renewal fee for the renewal of existing Certificates of Use as issued herein.
3. An application fee shall be assessed for the processing of a new application for Certificate of Use.
4. Inspections of the applicant's business premises shall be scheduled at the convenience of both the compliance officer/inspector and the business owner. If the business owner fails to be present at the time of the scheduled inspection or if the compliance officer/inspector is denied and/or unable to gain access to the business premises to conduct the requisite inspection, the business owner may be subject to being charged a reinspection fee per reinspection at the discretion of the Town Manager or designee. Additionally, after three (3) such attempts and/or denials of access to the premises the Town Manager or designee may pursue the revocation of any existing certificate(s) of use issued to the subject premises.

90.27.4

Application procedures.

1. Procedures for issuance. No Certificate of Use shall be issued or granted to any person or location to engage in any business type use named, identified or encompassed by this division unless:
 - a. An application is filed with the Town Manager or designee on forms provided for that purpose, disclosing the following:
 - (i) The applicant's name and address.
 - (ii) The name of the business for which a certificate is sought.
 - (iii) The name and address of the owner and operator of the business and if a corporation, the names and addresses of each of its corporate officers and it's resident or registered agent.
 - (iv) The type or classification of the business and the relationship of the applicant to the business.
 - (v) The location in the Town where the business will be operated.



- (vi) The date of birth and driver's license number of the owner/operator and any applicable federal employer identification numbers.
 - (vii) If the applicant is a corporation or partnership, the full name of the corporation or partnership and the state of incorporation. Applicant must submit a copy of the Articles of incorporation.
 - (viii) If the business is a corporation and is to be conducted under another name, the business name and county of registration under F.S. § 865.09. Applicant must submit a copy of the fictitious name registration.
 - b. There has been a site inspection of the applicant's business premises, except home based businesses.
 - c. The Town Manager or designee, as appropriate, has approved and assigned the zoning use classification.
 - d. The Town Manager or designee has verified compliance with all applicable laws and regulations and has collected all applicable fees due to the Town.
2. Legality of use. In the event there is a question as to the legality of a use, the Town Manager or designee, as appropriate, may require affidavits and such other information s/he may deem appropriate or necessary to establish the legality of the use, before a Certificate of Use will be issued.
3. Emergency locator. The application shall contain a section designated "emergency locator." The applicant shall fill out as part of the Certificate of Use application the names, business and residence addresses and residence and business phone numbers of the owner, and the manager or other persons to be notified in case of fire or other emergencies. Any changes in such information during the period for which the Certificate of Use is issued shall be made to the Department, in writing.
4. Certificate number. All applications and certificates shall be assigned a number.
5. Statement of accuracy. The application form shall contain the following language:

"THE UNDERSIGNED HAS CAREFULLY REVIEWED THIS APPLICATION AND ALL INFORMATION CONTAINED HEREIN HAS BEEN FREELY AND VOLUNTARILY PROVIDED. ALL FACTS, FIGURES, STATEMENTS CONTAINED IN THIS APPLICATION ARE TRUE, CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE APPLICANT ALSO ACKNOWLEDGES AND UNDERSTANDS THAT THE ISSUANCE OF A TOWN CERTIFICATE OF USE IS CONTINGENT UPON A ZONING COMPLIANCE INSPECTION AND IN CONJUNCTION WITH THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY, AND TOWN BUSINESS TAX RECEIPT. FAILURE TO COMPLY WITH THE TOWN'S ORDINANCES MAY RESULT IN REVOCATION OF SAID CERTIFICATE OF USE."
6. Name; signature. The applicant shall print and sign his name to the application immediately after the statement required in Subsection 5 above. In the case of a corporation, an officer shall be required to sign the application in his individual capacity and not solely as a corporate agent.
7. Obtaining a Certificate of Occupancy prior to issuance of Certificate of Use. All businesses required to obtain a Certificate of Occupancy from



the Town Manager or designee pursuant to Section 307 of the Florida Building Code, must do so prior to the issuance of a Certificate of Use. Any Certificate of Occupancy issued by Miami-Dade County shall be honored by the Town, provided that the occupancy for which the certificate was issued remains the same.

8. State license, certification, registration required. All businesses and professions regulated by the state must submit a copy of their current state license, certification, and/or registration prior to the issuance of their Certificate of Use thereafter each year at time of renewal. Only the state license itself, or in the case of the state hotel and restaurant Commission, the receipt issued by the state, shall constitute proof of current state license.
9. Grease trap registration required. All restaurants are required to obtain a grease trap permit from the Miami-Dade County Department of Environmental Resources Management and shall provide a copy of said permit to the Town Manager or designee prior to the issuance of any Certificate of Use.
10. Fire inspection required. All businesses that require an annual inspection from the Miami-Dade County Fire Department shall submit a copy of the county fire inspection report or any such form indicating that said business was inspected and passed the requisite inspection; prior to the issuance of any Certificate of Use.

90.27.5

Grounds for denial.

1. The Town Manager or designee, as appropriate, shall have the authority to deny an application for a Certificate of Use on the following grounds:
 - a. That the applicant has failed to disclose or has misrepresented a material fact or any information required by this division in the application.
 - b. That the applicant desiring to engage in the business, as described in the application, has selected a proposed site or type of business activity, which does not comply with the Town's Zoning Ordinance or other laws of the Town.
 - c. That the applicant has failed to obtain a Certificate of Occupancy as required by Section 307 of the Florida Building Code.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, Town or county law, with respect to the specific zoning use, and the applicant has violated such specific provisions.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation within thirty (30) days after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division; code compliance lien; special assessment lien and/or any other debt or obligation due to the Town under state or local law.



- i. The applicant has been denied a Town business tax receipt, or the applicant's business tax receipt has been revoked within the last twelve (12) months.
 - j. The applicant fails to permit inspection by the Town as required and prescribed herein.
2. Any person, whose application has been denied as provided herein shall have the right to apply for a variance and/or public hearing. Such application shall be governed in accordance with any Town or local ordinance or law.

90.27.6

Renewal of Certificate of Use.

1. Renewed certificates will not be issued until all delinquent payments for any fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law has been paid in full.
2. The Town shall endeavor to notify all certificate holders that their Certificates of Use are due for renewal. However, if such certificate holder does not receive a renewal notification, it is responsibility to renew the Certificate of Use prior to October 1, to avoid delinquent charges.
3. Any current Certificate of Use may, at the discretion of the Department, be renewed for each new certificate year without the need for a new application, provided the applicant signs the following certification:
"I THE UNDERSIGNED HEREBY CERTIFIES THAT THE CERTIFICATE OF USE FOR WHICH I AM NOW APPLYING IS ONE FOR A RENEWAL OF A CURRENT CERTIFICATE OF USE WHICH IS NOW IN FULL FORCE AND EFFECT. I HAVE NOT CHANGED THE AUTHORIZED USE OF THE PREMISES NOR HAVE I MADE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES AND DO NOT PLAN TO MAKE ANY PHYSICAL OR STRUCTURAL CHANGES TO THE PREMISES."
4. Any renewal application in which the applicant changes the authorized use of the premises or makes or proposes any physical or structural changes in the premises shall be reprocessed as if the certificate were a new application.

90.27.7

Display of certificate.

Each Certificate of Use issued by the Town shall be displayed conspicuously at the place of business and in such a manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the Town. Failure to display the certificate in the manner provided for in this Section shall subject the owner/operator to applicable code compliance procedures and/or any other remedies as permitted by law.

90.27.8

Duties of Building Department.

1. The Building Department, among other duties, shall collect all fees and shall issue certificates in the name of the Town to all persons or businesses qualified under the provisions of this division and shall:
 - a. Verify that the applicant is in compliance with all applicable laws and regulations of the Town as prescribed herein.
 - b. Investigate and determine the eligibility of any applicant for a certificate and/or the current status of any certificate as prescribed in this division.
 - c. Accept applications for Certificates of Use and review for completeness.



- d. Inspect the applicants' premises for compliance with the applicable building codes identifying any necessary building permits and/or any building code violations.
 - e. Coordinate with Miami-Dade County Fire Department and the Department of Environmental Resources Management to obtain copies of respective approvals as necessary.
2. The Town Manager or designee, as appropriate, shall among other duties:
- a. Approve and assign the zoning use classification for each business premises.
 - b. Examine the books and records of any applicant or certificate holder when reasonably necessary for the administration and compliance of this division.
 - c. Notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any certification, at the applicant's request, state in writing the reasons therefore and deliver them to the applicant.
- 90.27.9 Examination of records.
It shall be unlawful for any person and/or business to refuse to allow the Department to investigate and examine relevant records for the purpose of determining whether such person and/or business has a certificate and/or whether such person and/or business shall be issued a certificate.
- 90.27.10 Approval of business location required.
No Certificate of Use shall be issued for any business until the zoning use classification of the business premises is first approved by the Town Manager or designee, as appropriate; and the Department verifies that the applicant is in compliance with all applicable laws, and other regulatory ordinances of the Town.
- 90.27.11 Lost or stolen certificates; issuance of duplicate.
A duplicate Certificate of Use shall be issued by the Town Manager or designee, as appropriate, to replace any certificate or special permit previously issued which has been lost, stolen, defaced or destroyed without any willful conduct on the part of the certificate holder upon the filing by the certificate holder of an affidavit sworn to before a notary public of this State attesting to that fact. A duplication fee shall be charged for each duplicate certificate.
- 90.27.12 Obtaining certificate by false statement.
Any Certificate of Use obtained under the provisions of this division upon a misrepresentation of a material fact shall be deemed null and void and the certificate holder who was thereafter engaged in any business under such certificate shall be subject to compliance action for doing same without a Certificate of Use with the same effect and degree as though no such certificate had ever been issued.
- 90.27.13 Illegal activity not approved by certificate.
The issuance or possession of a valid Certificate of Use obtained under the provisions of this division does not constitute an approval of any offense, illegal activity or act prohibited by law.
- 90.27.14 Revocation of Certificate of Use.
The Department, in consultation with the Town Manager or designee, as appropriate, is granted the authority and charged with the duty to revoke, refuse to renew or suspend any Certificate of Use as follows:



1. A Certificate of Use issued under this division may be revoked, suspended, or renewal of said certificate refused on the following grounds.
 - a. The certificate holder has failed to disclose or has misrepresented a material fact or information required by this division in the application. If an intentional misrepresentation of a material fact is discovered.
 - b. The certificate holder does not engage in the business as described in the application or has changed the use without authorization.
 - c. The certificate holder allows the premises to be utilized for solicitation for prostitution, pandering, lewd and lascivious behavior, sale, distribution or display of obscene materials or conduct; sale or possession of any controlled substances or narcotics.
 - d. The Certificate of Occupancy for the proposed business location has been denied, suspended or revoked for any reason.
 - e. The issuance of a Certificate of Use is based on the applicant's compliance with specific provisions of federal, state, town or county law and the applicant has violated such specific provisions including but not limited to violations of federal, state, or county criminal statutes, and/or violations of county and/or Town zoning, business tax receipts, and related ordinances.
 - f. The applicant has violated any provision of this division and has failed or refused to cease or correct the violation after notification thereof.
 - g. The premises have been condemned by the local health authority for failure to meet sanitation standards or the premises have been condemned by the local authority because the premises are unsafe or unfit for human occupancy.
 - h. The applicant is delinquent in the payment of any certification fee imposed under this division, code compliance lien, special assessment lien and/or any other debt or obligation due to the Town under state or local law.
2. Procedure.
 - a. The Department may revoke, refuse to renew or suspend any Certificate of Use on any grounds set forth herein. The Department shall issue a written notice of intent to revoke and/or suspend that shall set forth the grounds upon which the notice is issued, the corrections necessary for compliance, and the certificate holder's right to request an administrative hearing in front of the Town Special Master, and that said appeal must be taken within thirty (30) calendar days of the service of said notice.
 - b. The thirty (30) calendar days shall be considered a warning period during which the noticed certificate holder may come into compliance as required herein. If compliance is achieved within said warning period the Department shall void the revocation and the certificate holder shall dismiss any pending appeal.
 - c. The notice shall be sent certified mail, return receipt requested, to the address provided in the application or the last known address of the applicant. Alternate service may be made by delivery of the notice of hearing to the place of business and/or posting such notice thereon. If there is no appeal taken by the certificate holder as provided herein, the Certificate of Use shall be automatically revoked. Upon revocation of the Certificate of Use, the certificate holder shall immediately cease doing business in any location listed therein.



- d. The request for hearing before the Special Master to appeal the revocation notice shall stay any compliance action and the Certificate of Use shall remain in effect unless, within the sole discretion of the Department, it is determined that the grounds for denial represent an immediate threat to the health, safety, and/or welfare of the public.
3. Scheduling and conduct of hearing.
 - a. At any time prior to the expiration of thirty (30) days following the service of the notice of intent to revoke and/or suspend the Certificate of Use, the certificate holder may request in writing that the Department schedule a hearing on the basis that he/she wishes to appeal the pending revocation notice. The office of the Town Clerk, in consultation with the Town Special Master, shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as practical, provided that the hearing date is not more than forty-five (45) calendar days from the date of the Town's receipt of the timely request for appeal. The certificate holder shall receive a minimum of fifteen (15) days' written notice of the hearing which shall set forth the time and place for the administrative hearing.
 - b. The hearing shall be conducted by the Special Master.
 - c. The proceedings at the hearing shall be recorded by the Town Clerk.
 - d. The hearing shall be conducted in an informal manner and the formal rules relating to evidence and witnesses shall not apply, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the Special Master finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
 - e. Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witnesses regardless of which party first called that witness to testify; and to offer rebuttal to the evidence.
 - f. Requests for continuances will not be considered if not received by the Special Master at least seven (7) calendar days prior to the date set for the hearing.
 - g. The proceedings at the hearing shall be conducted as follows:
 - (i) The Department shall present testimony in evidence.
 - (ii) The certificate holder shall then present testimony in evidence.
 - (iii) Each side shall have the right of cross-examination at the conclusion of the other's presentation.
 - (iv) The Special Master shall have the right of inquiry.
 - (v) Each party shall have the right to present rebuttal evidence.
 - (vi) Upon completion of the presentations, the hearing shall be closed, and the Special Master shall analyze the testimony and evidence of record and shall render a decision either affirming or denying the determination of the Department.
 - h. The decision of the Special Master shall be reduced to writing and copies thereof shall be furnished to the Department and certificate holder within five (5) business days of the hearing.
 - (i) This decision may be appealed by writ of certiorari within thirty (30) days of such written order to the Circuit Court.



(ii) Upon the time period for such appeal having expired, and no such appeal having been filed, or upon the expiration of such appeal procedures resulting in the affirmation of the decision of the Special Master, the certificate shall stand automatically and immediately revoked and no new certificate shall be issued. Upon revocation, the certificate holder shall immediately cease doing business in any location listed therein.

i. No application for a Certificate of Use shall be considered by the Town until one (1) year after the date of any revocation or non-renewal.

90.27.15

Right of inspection.

1. Any person applying for or obtaining a Certificate of Use shall be subject to an annual inspection of the place of business.
2. For the purpose of enforcing the provisions of this division, code officials, inspectors, and compliance officers shall have the right of inspection provided that said inspection shall be reasonable and scheduled at the convenience of the applicant or certificate holder and the compliance officer or inspector. The office of the Town Attorney is hereby authorized to seek inspection warrants as necessary.
3. Notwithstanding the foregoing, a home based business need only be inspected if a complaint regarding the operation of the business is received and subsequently observed by the Town Manager or designee.

90.27.16

Penalties for offenses.

Any person who violates any section of this division shall be subject to the issuance of a civil penalty to be issued in accordance with the code compliance code.

Division II

Nonconforming uses, lots and structures

Sec 90.28

Nonconforming Uses and Structures – Purpose and Scope

The purpose of this rule is to regulate and limit the development and continued existence of unlawful uses, structures and lawful uses established prior to the effective date of this Zoning Code which does not now conform to the requirement of this Code.

Revisions of this Section are designed to curtail substantial investment and non-conformity and to bring about the eventual improvement or elimination in order to the preserve the integrity of the restorations in a character of the Town. Any non-conforming structure or lot which lawfully existed on the date of the adoption of this Zoning Code and which remains non-conforming and any lot which has become non-conforming as the result of the adoption of this Zoning Code or any subsequent amendment thereto may be continued only in accordance with the terms of this Article.

Moving a non-conforming structure. A non-conforming structure shall not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements whether the district to which the structure is moved. The moving of the structure shall also comply with the requirements of other applicable Town ordinance.

Sec 90.29

Nonconforming lots

If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the adoption of the ordinance from which this division was derived, or any amendment thereto which requires a larger minimum lot size than currently exists, the owner may



use such lot for improvements that conform in all other respects to applicable zoning regulations. Any existing building which may be located on such a nonconforming lot may be altered or enlarged, provided such alteration or enlargement meets all other applicable requirements of these zoning regulations, including the substantial improvements provisions.

Sec 90.30

Nonconforming use of buildings

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

Sec 90.31

Discontinuance of nonconforming uses

No building or land, or portion thereof, used in whole or in part as a nonconforming use in any zoning district, which remains idle or unused for a continual period of six (6) months, or for eighteen (18) months during any three (3) year period, irrespective of whether or not existing equipment or fixtures which contribute to the nonconformity are removed, shall again be used except in conformity with the regulations of the district in which such building or land is located.

90.31.1

Discontinuance or Destruction of a nonconforming use or structure.

1. Nonconforming use of land. If for any reason a nonconforming use of land ceases or is discontinued for a period of more than six (6) months, or for eighteen (18) months during any three (3) year period the land shall not thereafter be used for a nonconforming use.
2. Nonconforming use of building or structure. If for any reason the nonconforming use of a building or structure ceases or is discontinued for a period of six (6) months or more, the building or structure shall not thereafter be used for a nonconforming use.
3. Reconstruction after catastrophe. If any nonconforming building or structure is destroyed or damaged by a fire, flood, windstorm, natural disaster or similar event, and the cost of restoring the structure to its condition which existed immediately prior to the event does not exceed fifty (50) percent of the cost of replacing the entire structure, then the structure may be restored to its original nonconforming condition. If any nonconforming building or structure in which there is a nonconforming use, is damaged by fire, flood, windstorm, natural disaster or similar event and the cost of restoring the structure to its original condition will exceed fifty-one (51) percent of the replacement cost of the same building or structure, then the structure shall not be restored.
4. Ordinary repairs and maintenance may be made to a non-conforming structure provided that such repairs or maintenance does not exceed fifty (50) percent of the value as determined by the building official.

Ordinary repairs and maintenance in accordance with the criteria, not including repairs and maintenance that would substantially alter the



structure, result in a change of occupancy of the structure, or contravene or circumvent other provisions hereof.

Sec 90.32

Existence of nonconforming use

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

Sec 90.33

Alterations or Enlargement of Nonconforming Structures

Except as provided in this Section a nonconforming structure shall not be enlarged in any manner or undergo any structural alteration unless to make it a conforming structure. Such alteration or enlargement may be permitted provide that:

1. Enlargement or alteration itself conforms to the requirement of these regulations;
2. Building non-conformity only as to height area or floor area requirements may be altered or extended; enlarged so long as it does not increase the degree of non-conformity for the applicable district.

Sec 90.34

Nonconforming uses not validated

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

Division III

Special exceptions, zoning changes, conditional uses and variances

Sec 90.35

Planning and Zoning Board; Applications for special exceptions, zoning changes, conditional uses and variances; rules of procedure.

Rules of procedure. The following rules shall govern procedure on all applications for special exception, zoning changes, conditional uses, and/or variances:

1. All applications shall be submitted to the Planning and Zoning Board on the prescribed form and accompanied with the prescribed fee. The Planning and Zoning Board shall be required schedule a public hearing not later than thirty (30) days after receipt of such special exception, zoning change, conditional use permit or variance request. The Board shall make its views and recommendations known to the Commission for the Commission's determination. If the Board fails to take action within the prescribed time, the Commission shall assume its duties.
2. A public hearing shall be advertised at least once in a local newspaper of general circulation or publicly posted in the Town Hall at least ten (10) days prior to the public hearing. Written courtesy notices shall be sent by first class mail to affected property owners within a radius of three hundred (300) feet. Where practicable, such advertising shall contain, in addition to a legal description, a street address, together with the specific intended use in layman's language, i.e., "apartment house" rather than "multiple dwelling," "meat market" rather than "business zoning."
3. A notice, eighteen (18) inches by twenty-four (24) inches, shall be placed in a prominent place on the property by the applicant at his own expense denoting the following:



REQUEST FOR: _____
PLANNING AND ZONING MEETING DATE AND TIME
TOWN COMMISSION MEETING: DATE AND TIME

TOWN HALL
9293 Harding Avenue
Surfside, FL 33154

COMPLETE INFORMATION REGARDING THE APPLICATION IS
AVAILABLE BY CONTACTING THE TOWN HALL AT _____.

Such notice to be posted not less than ten (10) days prior to such hearing.

4. A posted notice shall contain the requested use change in layman's language as in subsection (3) of this Section. Posted notice shall be of standard size in standard colors, approved by the Town Manager or designee before erection.
5. All applications for rezoning must be made and presented by the fee title owner or owners of the property sought to be rezoned or by a tenant or attorney for the owner with the owner's written approval.
6. Applications for special exceptions, variances and conditional uses shall be adjudicated by resolution.
7. Applications for zoning changes to the land use map or rezonings shall be adjudicated through the same procedures as required for ordinance adoption as required by law.
8. Application for zoning change review criteria. In order to approve an application for zoning change the Town Commission must find that the application complies with each of the following criteria. The applicant is required to provide a report at the time the application is filed which includes documentation that the application complies with each of the below criteria:
 - a. The zoning change is consistent with the comprehensive plan;
 - b. The proposed change will result in development that is consistent in scale and character with those within 300 feet of the site;
 - c. The resulting boundaries of the zoning district are logically drawn;
 - d. The proposed change will not reduce property values in the Town;
 - e. The proposed change will enhance the quality of life in the Town; and
 - f. There are substantial and compelling reasons why the proposed change is in the best interests of the Town.
9. Resolutions for approval of special exceptions, variances and conditional use shall be sent to each member of the Planning and Zoning Board by the Town Manager following approval by the Commission (except for a rezoning of a parcel which shall be adopted by ordinance as provided by law, and forwarded to the Planning and Zoning Board in the same manner). All resolutions approving special exceptions, conditional uses and variances granted by the Commission shall be kept in a journal maintained for such purpose.
10. The hearing shall be conducted in accordance with the quasi-judicial procedures set forth in this Code.



The following applications are quasi-judicial and shall comply with the Town's quasi-judicial legislation:

- a. Site specific rezoning.
- b. Conditional use applications.
- c. Special exceptions.
- d. Variances, including, but not limited to: trees, signs, setback, distance requirements between buildings or other variances permitted by this chapter.
- e. Development of regional impact.
- f. Any other development approval deemed to be quasi-judicial by the Town Attorney.

Sec. 90.36

Variances

90.36.1

General Variances

1. Purpose, definition, scope and limitations. A variance is a relaxation of the terms or provisions of the Zoning Code of the Town of Surfside (Zoning Code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the Zoning Code would result in unnecessary and undue hardship on the property. As used in this Section, a variance is authorized only for lot coverage, dimensions of yards, setbacks, other open spaces, building spacing, parking, or loading requirements.
2. Uses and height of structures not subject to variance. A variance is authorized only as set out in subsection 1.
 - a. Under no circumstances shall the Town Commission grant a variance that would allow a use of property that is not allowed within the zoning district under the Town of Surfside Comprehensive Plan and the Zoning Code.
 - b. Under no circumstances shall the Town Commission grant a variance that would allow height of development and structures within the Town of Surfside that exceeds the maximum building heights that are set out in the Town of Surfside Comprehensive Plan or the Zoning Code, whichever provisions are more restrictive.
3. Nonconforming uses and structures not grounds for granting variance. Nonconforming use of neighboring lands, structures, or buildings in the same zoning district, and permitted use of lands, structures or buildings in any other district, shall not be considered grounds for granting a variance.
4. Town manager not authorized to vary terms of section. The Town Manager or designee has no authority to relax the terms of this Section. Authority to grant variances is lodged solely with the Town Commission.
5. Application requirements. An application for a General Variance shall be filed by the owner of the property upon which the variance is requested or the owners designated representative. The following shall, at minimum, be required to support a variance application:
 - a. Statements of ownership and control of the property, executed and sworn to by the owner or owners of one hundred (100) percent of the property described in the application, or by tenant or tenants with the owners' written, sworn consent, or by duly authorized agents evidenced by a written power of attorney if the agent is not a member of the Florida Bar.



- b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any easements.
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
 - d. Site plan indicating the existing and proposed structures.
 - e. A map indicating the general location of the property.
6. Staff review. The Town Manager or designee shall review the application to determine whether the proposed variance complies with the general purpose and standards set forth herein. The Town Manager or designee shall compile a written staff report summarizing the facts regarding the application, including all relevant documents. The complete staff report shall be transmitted to the Planning and Zoning Board and to the Town Commission.
 7. Review by Planning and Zoning Board and by the Town Commission. The Town Manager or designee shall schedule the General Variance application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing on the General Variance application, review the application, and make recommendations to the Town Commission for final action. The Town Manager or designee shall then schedule the variance application, including the recommendation of the Planning and Zoning Board, for a meeting of the Town Commission.
 - a. *Public hearing.* The Town Commission shall hold one (1) public hearing on the variance application.
 - b. *Action by the Town Commission.* In considering whether to approve or deny the application, the Town Commission shall review the application, the purposes and standards set forth in this Section, the staff report, the recommendation of the Planning and Zoning Board, and relevant evidence, including oral and written comments received at the public hearing. No variance shall be granted except upon the affirmative vote of at least four (4) members of the Town Commission.
 8. Standards of review. The Town Commission shall approve a variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:
 - a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;
 - b. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
 - c. Literal interpretation of the provisions of the Zoning Code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Code and results in unnecessary and undue hardship on the applicant;
 - d. The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the Town of Surfside Comprehensive Plan or the Zoning Code;



- e. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;
 - f. Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;
 - g. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and
 - h. The requested variance is in harmony with the general intent and purpose of the Town of Surfside Comprehensive Plan and the Zoning Code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.
9. Conditions and restrictions. The Town Commission may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set out in this Section, and to prevent or minimize adverse effects on other property in the neighborhood. Violation of such conditions and restrictions, when made a part of the terms under which a variance is granted, shall be deemed a violation of the Zoning Code, and shall constitute grounds for revocation of the variance.
10. Expiration of approval. The approval of a variance shall be void if the applicant does not obtain a building permit or other development order to implement the variance within twenty-four (24) months after the granting of the variance. An applicant who has obtained approval of a variance may request an extension of this time period within the original approval period. The Town Commission may grant one (1) or more extensions for a period of up to a total of six (6) months for good cause shown by the applicant.
11. Amendments and alterations to approved variances. Any expansion to an approved variance and any addition to or expansion of an existing variance shall require the same application, review, and approval as required under this Section for the original variance.

90.36.2

Administrative Variances

1. The Administrative Variance procedure shall be used for a variance from the provisions of the Zoning Code applying to setbacks for single-family structures only. The Administrative Variance procedures may only be used for applications which receive the approval from the Town Manager or designee. The maximum amount of the waiver is up to, but not greater than, five (5) percent for a side yard and ten (10) percent for a rear yard. No Administrative Variance shall be allowed for a front yard or corner yard.
2. An application for an Administrative Variance shall be made by the owner of the property and the application shall include:
 - a. The written consent of all the owners of all adjacent or abutting lots to the subject property, and
 - b. The written consent of all utilities and/or easement holders if the proposed work encroaches into any Easements
 - c. Survey less than one (1) year old (including owner's affidavit that no changes have occurred since the date of the survey). A survey over one (1) year is sufficient as long as the property has not changed



- ownership and the owner provides an affidavit that no changes change occurred since the date of the survey.
 - d. Site plan indicating the existing and proposed structures.
 - e. A map indicating the general location of the property.
 3. The application shall be reviewed based on the following criteria:
 - a. That the requested variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the Town;
 - b. That the requested variance is otherwise compatible with the surrounding land uses and would not be detrimental to the Town;
 - c. That the requested variance represents the minimum amount reasonably necessary to accommodate the requested action.
 - d. That the requested variance is consistent with the Goals, Objectives and Policies of the Town's Comprehensive Plan.
 4. Upon receipt of the completed application for the Administrative Variance, the Town Manager or designee shall review the request and provide a result of denial or approval to the Planning and Zoning Board. The Planning and Zoning Board shall either ratify or reject the Town Manager or designee's determination. If the Planning and Zoning Board rejects the approval or denial determination, the application shall no longer continue as an Administrative Variance. The applicant shall submit a General Variance application and be subject to the General Variance procedures.
 5. The Planning and Zoning Board shall ratify the Town Manager or designee's approval of the Administrative Variance in a Resolution. It shall be the burden of the applicant to record said Resolution in the official records of Miami-Dade County.

Sec. 90-37

Special exceptions

1. The following are special exceptions which may be granted by resolution of the Town Commission receiving at least three affirmative votes:
 - a. Nonconforming uses as follows:
 - i. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building.
 - ii. To determine the existence of a nonconforming use.
2. Other special use exceptions as follows:
 - i. To determine, in cases of uncertainty, the classification of any use not specifically named in these regulations; provided, however, such use shall be in keeping with uses specifically listed in the district.
3. The Town Manager or designee shall review the application and shall compile a written staff report summarizing the facts regarding the application and the complete staff report shall be transmitted to the Planning and Zoning Board. The Town Manager shall schedule the application for a meeting of the Planning and Zoning Board. The Planning and Zoning Board shall conduct one (1) public hearing and shall make a recommendation to the Town Commission for final action.



Sec. 90-38

Lapse of special exception or variance.

After the Town Commission has approved a special exception or granted a variance, or the Town Manager or designee has approved an Administrative Variance, the special exception or variance so approved or granted shall lapse after the expiration of two (2) years from its effective date if a building permit has not been issued, or if no substantial construction or change of use has taken place in accordance with the plans for which such special exception, or variance was granted. However, the Town Commission may grant an extension of up to six (6) months prior to the expiration of the original approval for good cause shown by the applicant.

Article III

Establishment of Zoning Designations

Sec. 90.39

Zoning Districts

In order to regulate the overall character of the Town, in an effort to restrict the massing, volume and bulk of building masses hereafter erected or structurally altered and to ensure the character and livability of the Town, the following zoning designations are hereby established. These designations further restrict the location of uses, location of buildings and the use of lot areas and regulates and determines the areas of yards, and other open spaces within and surrounding such buildings. Of primary importance is the designations' ability to control development to ensure a high quality environment that is comfortable, pedestrian friendly, safe and livable.

- 90.39.1 H30A and H30B – Districts wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.1.1 Purpose: The purpose of the H30 A&B districts is to protect the excellent character and scale of the single-family development now prevailing throughout much of the Town by preventing encroachment of incompatible uses and new structures that do not adequately respond to the overall scale of the existing context.
- 90.39.2 H30C: District wherein building masses are restricted to a maximum building height of thirty (30) feet.
- 90.39.2.1 Purpose: The purpose of the H30C district is to permit single-family, two-family, multi-family and hotel structures no more than thirty (30) feet in height.
- 90.39.3 H40 – District wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.3.1 Purpose: The purpose of the H40 district is to permit single-family, two-family, multi-family and hotel structures no more than forty (40) feet in height.
- 90.39.4 H120 – District wherein building masses are restricted to a maximum building height of one hundred twenty (120) feet.
- 90.39.4.1 Purpose: The purpose of the H120 district is to permit multi-family dwellings and hotels no more than one hundred twenty (120) feet in height.
- 90.39.5 SD-B40 – Special district wherein building masses are restricted to a maximum building height of forty (40) feet.
- 90.39.5.1 Purpose: The purpose of the SD-B40 district is to permit businesses no more than forty (40) feet in height.
- 90.39.6 Municipal: Community and Town owned facilities. Municipal zoning districts are assigned as municipal owned lands are aggregated.



Sec. 90.40

Regulating Maps

The zoning classification thereof shall be shown on a map designated as the Zoning Map of Surfside. This zoning map and all notations, dimensions, references, and symbols shown thereon pertaining to such districts shall be as much a part of these regulations as if fully described herein, and shall be filed as part of these regulations by the Clerk of the Town. Such map shall be available for public inspection in the offices of the Town Clerk and the Town Manager and any later alterations to this map, adopted by amendment as provided in these regulations, shall be similarly dated, filed, and made available for public reference.

- 90.40.1 Purpose. The intent and purpose of the regulating maps is to identify certain specific areas that, by virtue of their location, the Town desires to require features that promote the safety, comfort and convenience of the pedestrian.
- 90.40.2 Map symbols. A district name or letter-number combination shown on the district maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the municipality bounded by the district boundary lines which such name or letter-number combination is shown or indicated, except as otherwise provided by this Section.
- 90.40.3 Interpretation. Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of these regulations, the following rules shall apply:
 - 90.40.3.1 In cases where a boundary line is given a position adjacent to or within a street or alley, easement, or canal, it shall be deemed to be in the center of the street, alley, easement, or canal and if the actual location of such street, alley, easement or canal varies slightly from the location as shown on the district map, then the actual location shall control.
 - 90.40.3.2 In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
 - 90.40.3.3 Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be re-subdivided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of these regulations are bounded approximately by lot lines, such lot lines shall be construed to be the boundary of such districts unless such boundaries are otherwise indicated in the map or by ordinance.
 - 90.40.3.4 All water areas within the zoning jurisdiction are considered to be within a zoning district and controlled by applicable district regulations. Straight line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town limit line.

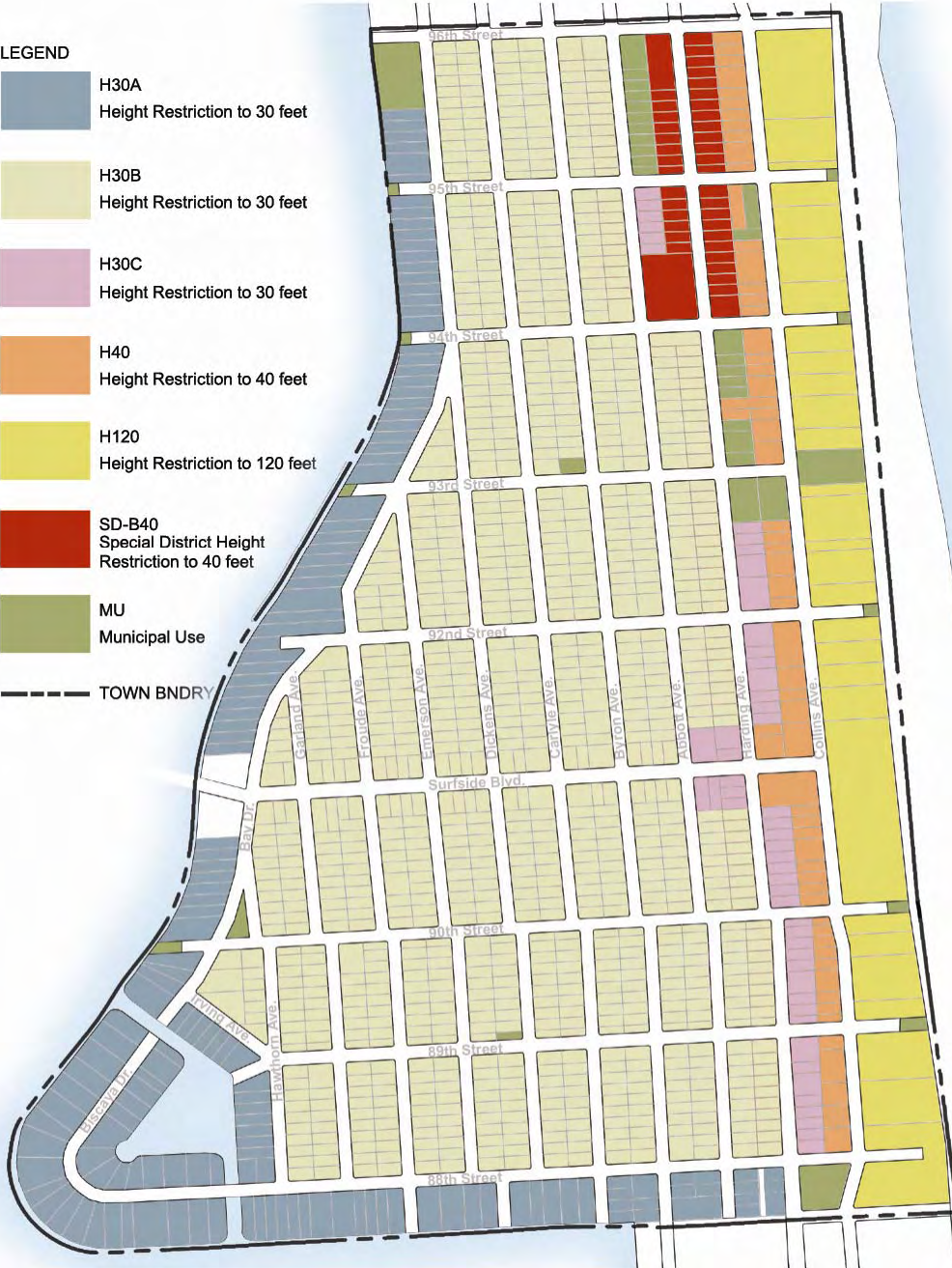


TOWN OF SURFSIDE ZONING MAP



LEGEND

-  H30A
Height Restriction to 30 feet
-  H30B
Height Restriction to 30 feet
-  H30C
Height Restriction to 30 feet
-  H40
Height Restriction to 40 feet
-  H120
Height Restriction to 120 feet
-  SD-B40
Special District Height
Restriction to 40 feet
-  MU
Municipal Use
-  TOWN BNDRY





Article IV District Regulations

Sec. 90.41 Regulated Uses

Applicability and validity of tables – nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here in.

90.41.1 Purpose. Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the Comprehensive Plan. These uses are permitted as of right, subject to the required permits and procedures described in this Section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this Zoning Code.

90.41.2 Permits required. Except as explicitly provided herein, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.

90.41.3 Table – Regulated Uses

	H30A	H30B	H30C	H40	H120	SD-B40
Residential Uses						
Detached Single Family	P (1)	P (1)	P(1)	P(1)	P(1)	-
Duplex	-	-	P	P	P	-
Multi-Dwelling Structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
Lodging Uses						
Hotel	-	-	P(7,19)	P(7)	P(7)	-
Suite-Hotel	-	-	P(7,19)	P(7)	P(7)	-
Office Uses and Professional Services						
Banks	-	-	-	-	-	P
Business and Professional offices, except veterinary offices	-	-	-	-	-	P
Currency exchange	-	-	-	-	-	P
Delivery service	-	-	-	-	-	P(9)
Employment agencies	-	-	-	-	-	P(9, 17)
General Ticket Agencies	-	-	-	-	-	P
Interior decorator	-	-	-	-	-	P
Loan or mortgage office	-	-	-	-	-	P(9)
Medical or dental clinic	-	-	-	-	-	P(9)
Radio or television station or studio	-	-	-	-	-	P(9)
Savings and loan associates	-	-	-	-	-	P
Secretarial service, mailing, bookkeeping, court reporter	-	-	-	-	-	P(9)
Stocks and bond brokers	-	-	-	-	-	P
Taxi agency	-	-	-	-	-	P(9)
Telegraph station	-	-	-	-	-	P
Telephone exchange	-	-	-	-	-	P
Title company	-	-	-	-	-	P(9)
Travel agency	-	-	-	-	-	P



	H30A	H30B	H30C	H40	H120	SD-B40
Retail and General Commercial Uses						
Antique Shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art Dealers	-	-	-	-	-	P
Art Supplies	-	-	-	-	-	P
Barbershops			-	-		P
Beauty Parlors	-	-	-	-	-	P (20)
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines			-	-		P(15)
Department Stores	-	-	-	-	-	P
Drug stores and sundries	-	-	-	-	-	P
Dry cleaning and laundry agency	-	-	-	-	-	P(10)
Dry Goods			-	-		P
Flowers and plants	-	-	-	-	-	P
Furniture	-	-	-	-	-	P(14)
Furrier	-	-	-	-	-	P
Gift Shops			-	-		P
Hardware, paint and wallpaper	-	-	-	-	-	P
Jewelry	-	-	-	-	-	P
Locksmith	-	-	-	-	-	P(11)
Luggage			-	-		P
Men's, women's, children's clothing	-	-	-	-	-	P
Millinery	-	-	-	-	-	P
Office machines and supplies	-	-	-	-	-	P
Pet supplies			-	-		P
Photographers and camera stores	-	-	-	-	-	P
Pottery	-	-	-	-	-	P
Sale of televisions, radios, phonograph and recording equipment	-	-	-	-	-	P
Sheet music and musical instruments			-	-		P
Shoe Repair	-	-	-	-	-	P(21)
Shoes	-	-	-	-	-	P
Sporting goods			-	-		P
Stationery and greeting cards	-	-	-	-	-	P
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P
Video tapes sales and rentals	-	-	-	-	-	P(12)
Food Services						
Bakeries	-	-	-	-	-	P(8)
Candy and Nut Shops			-	-		P(13)
Caterers	-	-	-	-	-	P
Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit Shops			-	-		P(13)



	H30A	H30B	H30C	H40	H120	SD-B40
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor Stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
Educational Services						
Dance or music instruction studios	-	-	-	-	-	P(9, 16)
Driving school offices			-	-		P(9, 22)
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public Schools	-	-	P	P	-	-
Places of Assembly						
See RLUIPA Map and Ordinance 07-1479	-	-	P	-	-	P
Civic Uses						
Parks & Open Space	P	P	P	P	P	-
Playgrounds	P	P	P	P	P	

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes

Uses	Municipal
Library	P
Parks & Open Space	P
Playgrounds	P
Community Center	P
Gymnasiums	P
Town Offices	P
Police Facilities	P
Pump Stations	P

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted

	H30A	H30B	H30C	H40	H120	SD-B40
Accessory Uses						
Boat Docks + Moorings	P (2)	-		-	-	-
Game Courts	P (2)	P (2)	P(2)	P (2)	P (2)	-
Home Bar-B-Q Grills	P (2)	P (2)	P(2)	P (2)	P (2)	-
Laundry/Service Rooms	-	-	P(5)	P (5)	P (5)	-
Office Spaces	-	-		P (3)	P (3)	-
Recreational Rooms	-	-	P(4)	P (4)	P (4)	-
Subordinate Buildings	-	-		-	-	P (18)
Swimming Pools	P (2)	P (2)	P(2)	P (2)	P (2)	-
Vending Machines	-	-	P(6)	P (6)	P (6)	-
Parking	-	-	P	P	-	P

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted



Sec. 90.41.4

Uses Table Notes

1. Detached single-family dwellings, subject to the following restrictions and limitations, as follows:
 - a. No structure shall be used or permitted to be used and no structure shall be hereafter erected, constructed, moved, reconstructed, structurally altered or maintained for any purpose which is designed, arranged or intended to be used or occupied for any purpose other than as a one-family residence, including every customary use not inconsistent therewith.
 - b. Every use not specifically authorized and permitted is prohibited and nothing herein shall authorize or be construed to permit the renting of a room or a portion of the property or improvement; or, to permit the use of any part of the premises as a business, office or establishment for the purpose of carrying on any business or the practice of rendering personal, trade or professional services, except as provided under the "Home Office" provision of this Code.
 - c. An accessory or subordinate building, attached or detached from the main premises in a single-family district, shall be construed to permit the use of such building for the purposes of garages, cabanas, storage and home workshops (non-commercial). However, nothing herein shall authorize or be construed to permit the occupancy or the use of any accessory building or structure, as a place of abode or dwelling, and no cooking or kitchen facilities shall be permitted.
 - d. When a garage is converted for any other use, the garage door or doors may be replaced by a solid exterior wall and access to the former garage area must be provided from the main premises, in addition to any other permitted access. At least one (1) window shall be provided. It is intended hereby to prohibit and prevent any violation of the single-family classification and to minimize the burden upon the administrative forces of the Town in policing and enforcing the provisions hereof. Changes to the appearance of the residence shall not constitute a change prohibited by the "Home Office" provision of this Code. If the exterior door of the garage conversion is no longer level with grade, stairs may be installed and the exterior door must be accordingly corrected to comply with the Florida Building Code. The stairs shall be permitted to encroach no more than twenty-four (24) inches into the side or rear setbacks.
2. Shall be for private-use only limited to residents and guests only and not public access.
3. Shall be limited to an area of not more than two (2) percent of the gross floor area of the building for administration of rental units in a building containing ten (10) or more living units.
4. Shall be limited to lounges, card rooms and auxiliary kitchens which are solely for the use of residents and guests.
5. Shall be for the use of residents and guests of a multiple-family dwelling and shall not be for public access. Coin-operated laundry machines may be utilized.
6. Shall be allowable only inside buildings containing ten (10) or more living units or guest rooms.
7. May provide a barbershop, beauty parlor, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand,



automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines, washing machines, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel.

8. Shall conform to the following restrictions and conditions:
 - a. That no baking shall be done on the premises for other retail or wholesale outlets.
 - b. That ovens or oven capacity is limited in total usable baking space, not to exceed in volume eighteen (18) standard pans of eighteen (18) by twenty-six (26) inches in width and length.
 - c. That adjoining properties shall be safeguarded and protected from exhaust fan or other obnoxious noises and odors at all times.
 - d. That all baking will be done by the use of electric or natural gas (not bottled gas) ovens only.
 - e. All machinery and equipment shall be entirely confined within the main building.
 - f. That the hours of baking operation shall be limited to those hours between 6:00 a.m. and 9:00 p.m.
 - g. That the entire store area shall be fully air-conditioned as required for comfort.
 - h. That baking shall not be permitted within twenty (20) feet of the store front, and shall be separated from the sales area by a partition or counter.
9. Shall only be allowed above the first floor.
10. Provided all machinery which provides cleaning or laundry services shall be separated from customer areas by a partition or counter and no customers shall be permitted to use such machinery. In addition, all dry cleaning machinery shall be non-ventilated, sealed system type machinery in which "Fluorocarbon R-113" type solvents are used.
11. Shall not be visible from sidewalk or street and shall not be permitted fronting Harding Avenue.
12. Provided all tapes sold are prerecorded, and all tapes are rated either G, PG, PG-13, or R.
13. Provided that no sales shall be made through an open window to any street, alley, driveway or sidewalk
14. Provided no repairing or servicing of furniture is permitted on the premises.
15. Coin-operated machines for dispensing goods or services are permitted, except that washing machines, dryers and other laundry-related equipment are prohibited. No coin-operated games of chance are permitted, but coin-operated games of skill are permitted within establishments solely dispensing liquor, for consumption on the premises only; provided, however, that not more than three (3) such games of skill are permitted in any such establishment, and that such games shall not be used for wagering nor for the awarding of prizes of any value.
16. Shall only be allowed above the first floor and such studios meet all of the following restrictions and conditions:



- a. That the premises be air conditioned and soundproofed.
 - b. That no dance instruction or dancing shall be visible from any sidewalk, street or alley.
 - c. That the opening and closing hours for such studios may be established by the Town Commission at its discretion at any time.
17. Shall only be allowed above the first floor and such use shall maintain at all times sufficient office space to accommodate all applicants for employment using their services and obviate the congregating or loitering of such applicants in any hallway or on any sidewalk.
 18. Shall be any subordinate building or use which is clearly incidental to and customary in connection with the main building or use, provided there shall be no open storage of products and materials, including garbage and debris, on any lot.
 19. Shall be limited only to properties between Collins Avenue and Harding Avenue.
 20. Exterior windows on the ground floor shall be screened, curtained or otherwise made opaque four feet six inches from the grade of the adjacent sidewalk so as to block the view of the interior premises from the public right-of-way. However, such screening shall not be required where only hair styling and manicures are performed within twenty (20) feet of the public right-of-way.
 21. Provided no machinery for providing repairs shall be visible from the sidewalk or street and no shoe repair shop shall be permitted on Harding Avenue
 22. Provided such use shall be limited to offices only, and shall not be interpreted in any manner as permitting the conduct of any such school's or schools' business, activities or functions upon the public streets of the town.

Sec. 90.42

Minimum Unit Sizes

Unit Sizes	Minimum Area (Square Feet)
Efficiencies	600 SF
One-bedroom Apartments	800 SF
Two-Bedroom Apartments	950 SF
Three-Bedroom Apartments	1150 SF
Hotel Rooms, each	350 SF
Suite-Hotel Rooms, each	525 SF

Sec. 90.43

Maximum Building Heights

Designation	Maximum Height (Feet)
H30A	30 FT
H30B	30 FT
H30C	30 FT
H40	40 FT
H120	120 FT
SD-B40	40 FT
MU	Surrounding Designation



Sec. 90.44
90.44.1

Modifications of height regulations.

Architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, may be erected to a reasonable and necessary height, consistent with and not to exceed the following limitations:

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H30A	3 FT	1%
H30B	3 FT	1%
H30C	3 FT	10%
H40	12 FT	10%
H120	20 FT	30%
SD-B40	12 FT	10%

90.44.2

Mechanical equipment rooms, including elevator shafts, may be allowed to exceed the maximum height limitations, not to exceed the limitations listed above, provided they shall be of a high architectural quality integral to the design of the building.

90.44.3

In the H120 district, on lots or parcels where construction is regulated by the State of Florida Coastal Construction Code, maximum height shall be measured from whatever elevation is established by the Florida Department of Environmental Protection for the first floor.

Sec. 90.45
90.45.1

Setbacks

Required Setbacks – Tables

H30A	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H30B	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	20 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage



H30C	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

H40 - Harding Avenue + Less than or equal to 50 ft in width	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than 50 ft and less than 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H40 - Harding Avenue + Wider than or equal to 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

H120	Minimum Setback (Feet)
Primary frontage	40 FT
Interior side	10 FT
Rear	30 FT
Secondary frontage (Corner only)	20 FT

SD-B40	Maximum Setback (Feet)
Primary frontage	0 FT
Interior side	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

Sec. 90.46

Projections into required setbacks

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



- Sec. 90.47 Yards generally, allowable projections**
- 90.47.1 Every part of a required yard shall be open to the sky, except ordinary projections of sills, cornices, roof eaves and ornamental features may project not more than twenty-four (24) inches into any required yard.
- 90.47.2 Moveable awnings may be placed over doors or windows and may project not more than three (3) feet into any required yard.
- 90.47.3 In properties designated H30A or H30B, air conditioning equipment, pool pump or other mechanical equipment may be located in a required rear setback, provided such equipment is at least fifteen (15) feet from any other single-family or two-family residence and is not visible from any street or waterway.
- 90.47.4 In the H40 district on lots with less than seventy-five (75) feet of frontage and east of Harding Avenue in H30C district, unenclosed balconies may extend into a required primary (front) and secondary (corner) setback not more than five (5) feet, and may extend into a required rear and interior side setback not more than two and one half (2 ½) feet.
- 90.47.5 In all districts except H120 district, open, unenclosed building entrance porches, platforms, stairs or paved terraces, not covered by a roof or canopy, and which do not extend above the level of the grade or entrance floor of the building, may extend or project into the required front or side yard no more than six (6) feet and the encroachments shall not provide less than a twenty-four (24) inch setback to the property line.
- 90.47.6 In the H120 district, open unenclosed balconies may extend into a required primary (front), secondary (corner), or rear setback not more than eight (8) feet, and may extend into a required interior side setback not more than five (5) feet.
- 90.47.7 In the H30C, H40, and H120 districts no more than ninety (90) percent of a balcony's footprint shall overhang the balcony on a lower level.
- 90.47.8 In the H30, H40 and H120 district a cantilevered canopy will be permitted in the required front yard, subject to the following:
1. The structure must be completely supported (cantilevered) from the main structure;
 2. The structure must be transparent in nature with a solid to transparent material ratio of no more than thirty-five (35) percent solid to sixty-five (65) percent transparent;
 3. The structure must not have a frontage of more than thirty (30) feet in width;
 4. The structure must not extend more than twenty (20) feet into the required front setback; and
 5. The structures shall not extend into any side setback area.
- Sec. 90.48 Modification of side and rear yard regulations**
- 90.48.1 The minimum width of side setbacks for libraries, places of public assembly, recreational centers and other public, semipublic and civic buildings shall be a minimum of fifteen (15) feet.
- 90.48.2 In all districts other than the H120 districts, the required side setbacks for corner lots adjoining canals or waterway shall comply with the secondary frontage setback requirements for that frontage.



- 90.48.3 In the H30A district, no building shall be erected within twenty-five (25) feet of the seawall on Point Lake nor within fifty (50) feet of the sea wall on Biscayne Bay or on any lots in Blocks 26, 28 and 28A of the Normandy Beach Subdivision, Second Amended.
- 90.48.4 Where a lot abuts an alley, the depth of the rear yard shall be seven (7) feet.

Sec. 90.49 Lot Standards

Lot Standards	H30A	H30B	H30C	H40	H120	SD-B40	MU
Minimum Lot width	50 FT	50 FT	50 FT	50 FT	50 FT	0 Ft	-
Minimum lot area	8,000 FT	5,600 FT	-	-	-	-	-
Maximum Lot coverage	40%	40%	-	-	-	-	-
Minimum Pervious area	35%	35%	20%	20%	20%	-	-



Article V Design Standards

- Sec. 90.50 Roof Deck Provisions.**
- 90.50.1 Roof decks shall be permitted in all zoning districts.
- 90.50.2 For properties designated H30A and H30B, roof decks area limited as follows:
1. Exterior and interior stairs shall be permitted
 2. No extension of stairs shall be permitted over the thirty (30) feet height limitation of the building.
 3. Roof decks shall provide ten (10) foot setbacks on the sides and rear of the building.
- 90.50.2 For properties designated H30C, H40, H120, SD-B40 and MU, roof decks are limited to:
1. A maximum of seventy (70) percent of the aggregate roof area;
 2. Shall not exceed the maximum roof height required by any abutting property's zoning designation;
 3. Shall be setback from the roofline at least ten (10) feet on all sides to provide for minimal visibility of roof decks from any public way, except on properties designated SD-B40; and
- 90.50.3 All roof decks added to existing buildings shall be inspected by a Registered Structural Engineer and Registered Architect, who shall address in writing to the Building Official the following issues:
1. How will the existing roofing system be protected or replaced to allow for the new use;
 2. Structural support strategies for any increase in live loads and dead loads;
 3. Compliance with applicable ADA requirements;
 4. Location of plumbing and mechanical vent stacks, fans and other appurtenances;
 5. Egress design compliance per the Florida Building Code and the Florida Fire Prevention Code;
 6. Added occupancy and servicing restroom facilities; and
 7. All other issues applicable in the Florida Building Code.
- 90.50.4 All work performed on an existing roof deck to allow for occupancy shall be considered a change of use and shall require both a Permit and a Certificate of Occupancy.
- Sec. 90.51 Maximum frontage of buildings**
- 90.51.1 Continuous wall frontage shall be articulated as follows:
1. H30C: For every fifty (50) feet, a minimum three (3) foot change in wall plane.
 2. H40: For every seventy-five (75) feet, a minimum six (6) foot change in wall plane.
 3. H120: For every one-hundred (100) feet, a minimum six (6) foot change in wall planes. The change shall be either vertical or horizontal.
- Sec. 90.52 Required clearances**
- As an aid to free and safe movement of vehicles at and near street intersections and in order to promote more adequate protection for the safety of children, pedestrians, operators of vehicles and for property, for proposed construction hereafter, there shall be limitations on the height of fences, walls,



gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures, construction, and planting on corner lots in all districts where front yards are required as follows:

- a. All corner properties shall provide and maintain unobstructed corner clearance areas measured a distance of twenty-five (25) feet along both the front and side lot lines, measured from the point of intersection, of the intersecting lot lines.
- b. All objects within any corner areas as previously defined shall be limited to a maximum height of twenty-four (24) inches above the established elevation of the nearest curb;
- c. Any permanent or semi-permanent structures, including trees or shrubs, with the exception of walls or fences subject to the height limitations stated herein, shall not be allowed or constructed within any part of the corner clearance areas; and
- d. It shall be unlawful for any person to plant or cause to be planted any tree or shrubs or to place any structure in the public right-of-way without a permit from the Town Manager or designee. The elevation grades of the public right-of-way adjacent to private property shall not be altered.

- Sec. 90.53 Portable Storage Units**
- 90.53.1 There shall be no more than one (1) portable storage unit allowed per site.
- 90.53.2 The portable storage unit shall be no larger than one hundred thirty (130) square feet in area and no higher than nine (9) feet in height.
- 90.53.3 Placement: Portable storage units shall be permitted in all zoning districts and are subject to the following restrictions:
- a. In H30A and H30B districts: Portable storage units shall generally be placed only in a driveway.
 - b. In H40 and H120 districts, portable storage units shall be placed only in the rear or side portion of a site. Portable storage units shall not be placed in an area fronting Collins Avenue or Harding Avenue or in the front of an establishment. The placement of portable storage units in fire lanes, passenger loading zones, commercial loading zones or public rights-of-way shall be strictly prohibited.
- 90.53.4 Duration of portable storage units shall be limited to the following:
- a. In H30A, H30B, and H30C districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days and portable storage units shall not be placed at any one (1) site in excess of twenty eight (28) days in any calendar year.
 - b. In H40 and H120 districts: Portable storage units shall not remain at a site in excess of fourteen (14) consecutive days, and portable storage units shall not be placed at any one (1) site in excess of sixty (60) days in any calendar year.
- 90.53.5 A portable storage unit shall have no signage other than the name, address and telephone number of the person or firm engaged in the business of renting or otherwise placing the portable storage unit.
- 90.53.6 The owner and operator of any site on which a portable storage unit is placed shall be responsible to ensure that the portable storage unit is in good condition, free from evidence of deteriorating, weathering, discoloration, rust, ripping, tearing or other holes or breaks.



90.53.7 Notwithstanding the time limitations set forth herein, all portable storage units shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a portable storage unit to remain at a site for a period in excess of such time limitations.

Sec. 90.54 Accessory buildings and structures in the H30A and H30B districts:

90.54.1 Any accessory buildings not connected to the main building, except by a breezeway, may be constructed in a rear yard, subject to the following provisions:

- a. The maximum height shall be twelve (12) feet.
- b. The maximum aggregated area shall be five hundred (500) square feet
- c. The structure shall provide a minimum rear setback of five (5) feet and shall conform to all other setbacks applicable to the property.

90.54.2 Accessory swimming pools and decks, open and unenclosed, or covered by a screen enclosure, may occupy a required rear, front, or side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

90.54.3 An open, uncovered porch, patio, or terrace may occupy a required rear or interior side setback, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Interior Side: five (5) feet
- c. Primary (Front) and Secondary (Corner): ten (10) feet

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

90.54.5 A detached garage shall not be remodeled and used as a part of the main building

90.54.6 An attached garage may not be remodeled and used as a part of the main building unless all required off-street parking spaces are provided elsewhere on the lot.

90.54.7 A tool shed, the area of which does not exceed seventy (70) square feet, shall be permitted in a rear yard, subject to the following minimum setbacks:

- a. Rear: five (5) feet
- b. Side and Secondary Frontage (Corner): Per Zoning Designation

90.54.8 All accessory buildings and structures, swimming pools, and accompanying fences and landscaping, located in the front yard setback shall be subject to review by the Design Review Board.

90.54.9 All accessory buildings and structures, swimming pools, and accompanying fences shall meet all applicable requirements of the Florida Building Code.

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



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- Sec. 90.55 Accessory buildings and structures in the H30C, H40, SD-B40 and H120 districts:**
- 90.55.1 Non-habitable structures, including but not limited to cabanas, pergolas, gazeboes and trellises shall have a maximum height of twelve (12) feet.
- Sec. 90.56 Fences, walls and hedges**
- 90.56.1 An ornamental fence or wall not more than six (6) feet in height, as measured from crown of road, may project into or enclose any yard, except as otherwise provided herein.
- 90.56.2 The height of such ornamental fence or wall shall be measured from the elevation of the crown of the road upon the street serving the lot or building site.
- 90.56.3 An ornamental fence or wall may be placed within the front yard of side corner yard if granted approval by the Design Review Board.
- 90.56.4 Ornamental walls placed within the front yard or side corner yard shall be subject to the following:
- a. The top twenty (20) percent of the wall shall have variations in height at regular intervals and it shall be consistent with the architectural style of the building; or
 - b. All wall surfaces above twenty-four (24) inches measured from grade shall have a maximum opacity of fifty (50) percent; or
 - c. No ornamental walls and fences shall have a continuous distance on the same plane of greater than ten (10) feet and planes shall be separated by a minimum of three (3) feet. Areas between the plane offset shall be landscaped.
- 90.56.5 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.
- 90.56.6 Hedges shall be no more than four (4) feet in height in the front yard and side corner yards and ten (10) feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the Design Review Board, on a case-by-case basis.
- 90.56.7 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of Section 90-52 (Required Clearances) or fire codes, including concealment of fire hydrants.
- 90.56.8 No fence, wall or hedge maybe placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than one hundred and fifteen (115) feet in width shall be permitted, provided that it is understood by the property owner that the Town does not waive its right to demand removal without notice as deemed necessary within the Town's discretion and the Town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.
- 90.56.9 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may



be constructed with posts on the outside of the fence provided that the horizontal rails are at least fifty (50) percent covered by boards on the side facing away from the property on which the fence is constructed.

90.56.10 It shall be a violation under this Article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this Section and as determined by the Town Manager or designee.

90.56.11 The following fencing material shall be prohibited:

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

90.56.12 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

90.56.13 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the Town Manager or designee.

90.56.14 Temporary construction fences shall be permitted. The maximum height of such fence shall be six (6) feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

Sec. 90.57 Marine structures

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

1. Projection of docks and piers into waterways beyond the waterway line, lot line, or established bulkhead lines shall be limited as follows, subject to final approval of DERM and any other applicable agency:
 - a. Biscayne Bay: thirty-five (35) feet
 - b. Indian Creek: thirty-five (35) feet
 - c. Point Lake: thirty-five (35) feet
2. Under no circumstances shall any dock or pier be constructed so as to project into any waterway for a distance equal to more than ten (10) percent of the width of such waterway's frontage.

Sec. 90.58 Carport canopies

Carport canopies may be constructed, in a front, side or rear yard setback in the H30A and H30B districts.

1. Such canopy shall not exceed twenty (20) feet in length, nor ten (10) feet in width.
2. No canopy shall extend beyond a property line or shall be closer than five (5) feet to the rear of the street curb, and supporting pipes shall be no closer than seven (7) feet.



3. The height of such canopy shall not exceed ten (10) feet, measured from the ground level to the uppermost point of the cover.
4. A front yard canopy shall be at least five (5) feet from the side property line.
5. A canopy shall at all times remain open on all four (4) sides, if free standing, and open on three (3) sides if attached to the main building.
6. The area under a canopy must be entirely concreted or asphalted.
7. Side openings shall be at least six (6) feet, three (3) inches, in height as measured from the ground level.
8. The width of the canopy shall not be less than the width of the driveway.

90.58.1

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

1. No canopy carport shall be constructed except of canvas (or similar material) covered pipe. Framework shall be galvanized Schedule 40 pipe assembled either with Schedule 40 galvanized fittings or welded and joints painted with a liquid zinc compound. For a ten (10) foot by twenty (20) foot canopy, uprights shall be of not less than one and a quarter (1 ¼) inch pipe; the perimeter shall be of not less than one (1) inch pipe and the rafters of not less than three fourths (¾) inch pipe. For a twenty (20) foot by twenty (20) foot canopy, the pipe sizes shall each be increased by one fourth (¼) inch. All uprights shall be either lag-bolted into a concrete base or, if mounted in dirt, concreted at least one (1) foot deep with a safety tee at the bottom of the pipe. The design and the minimum size of structural members shall not be less than required to resist a seventy-five (75) mile-per-hour wind with applicable shape factors. All fabric shall be designed for quick removal, which shall be required at a wind velocity in excess of seventy-five (75) miles per hour.
2. The framework height shall be a maximum of ten (10) feet and a minimum of seven (7) feet above grade. No uprights shall be installed closer than two (2) feet from the front lot line.
3. Covering material shall carry the Miami-Dade Fire Marshal's certificate of non-flammability. The material shall be attached to the framework by lacings only.

Sec. 90.59

Outdoor receiving and broadcasting antennae

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

1. Permit application. The application for a permit shall be made to the Town Manager, accompanied by a site sketch, showing dimension and location of the antenna in relation to the site boundaries, setback lines and the existing structures on the site; and drawings by a licensed structural engineer, showing the method of permanently anchoring the antenna and listing the materials to be used in such anchoring. A landscaping or covering plan may be required when appropriate.
2. Fee. A permit fee shall be required.
3. Construction provisions; yard placement. All such antennae shall be constructed to withstand a one hundred forty-six (146) mile-per-hour wind and in accordance with the provisions of the Florida Building Code and



these regulations; and in no case shall they be placed within, or intruding into, the front or side yards of any property. In the H120 zoning district, Collins Avenue shall be deemed to be the front of the property.

4. Roof placement. No antenna requiring a Town permit shall be placed upon the roof of any structure except in the H120 zoning district.
5. Height limits-Tower, pole, mast. For aesthetic reasons, tower, pole or mast antennae, except in the H120 zoning district, shall not be more than eight (8) feet, at their highest point, above the highest point of the main structure's roof. However, such antennae for amateur broadcasting purposes (ham radio) may have antennae thirty-five (35) feet in height from the average grade of the lot, or fifty (50) feet in height, if the antennae is of a retractable type that can readily be lowered to twenty-five (25) feet or less when not in use.
6. Height limits-Disk, bowl, planar. Disk, bowl, planar or similar-shaped antennae in any zoning district, except H120, shall not exceed a total of twelve (12) feet in height above the ground, including supporting structures; and the diameter shall not exceed thirty six (36) inches. All such disk, bowl, planar or similar-shaped antennae shall be sufficiently landscaped or covered so as to obscure the antennae from view from surrounding and adjacent properties.

Sec. 90.60

Construction adjacent to bulkhead lines

90.60.1

Ocean bulkhead lines are established in Section 14-86 and the following regulations shall control construction adjacent thereto:

1. No permit shall be issued for the construction of any habitable, fully-enclosed structure which shall be closer than twenty (20) feet to the ocean bulkhead line.
2. No permit shall be issued for the repair, extension, alteration or replacement of any habitable, fully-enclosed structure lying within twenty (20) feet of the ocean bulkhead line.

90.60.2

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

1. Permits required. It is hereby declared to be unlawful for any person to construct or erect any bulkhead, sea wall or other shore protection work along the shore line of Indian Creek in the Town without first obtaining a permit from the Town Manager or designee.
2. General limitations.
 - a. No permit shall be issued for construction, repair, alteration, extension or replacement of any structure of any nature whatsoever other than a bulkhead, seawall or shore protection work as mentioned in the preceding Section, or marine structure as mentioned in subsection 90-56, which shall be closer than twenty (20) feet to the Indian Creek bulkhead line. Provided however, that a swimming pool may be constructed no closer than fifteen (15) feet to the Indian Creek bulkhead line.
 - b. A swimming pool construction landward of less than twenty (20) feet of the Indian Creek bulkhead line shall be thoroughly investigated by a registered Structural Engineer known to the building official to be qualified to evaluate retaining walls, seawalls, bulkhead or other shore protective structures. The structural engineer shall certify that said construction will not compromise the structural capacity of the adjacent retaining wall, seawall, bulkheads or other shore protective



structure, and such construction will allow continued maintenance of said retaining wall, seawall or bulkhead, including anchors and soil supports. A certification shall be included on the drawings that the proposed construction has been designed in accordance with the Florida Building Code and all applicable laws. Upon project completion the registered engineer shall submit to the building official a letter attesting that the construction of the improvements has been observed and is in accordance with Section 307.2 of the Florida Building Code and all applicable local ordinances. The letter shall be signed and have the impressed seal of the registered structural engineer, as applicable.

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

90.60.3 All structures on Biscayne Bay and Point Lake shall be required to obtain a permit and meet the setbacks and general limitations established in subsection (b) of this Section (Indian Creek bulkhead lines).

90.60.4 All applications for building permits on properties designated H30A shall include a certified survey showing the point of intersection of the Indian Creek or other regulated seawall line with the adjacent side lot lines and/or street lot lines of the property on which construction is proposed, together with a certificate of a registered engineer or surveyor indicating that all of the work proposed to be done under the permit complies with all provisions of this Section.

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

Sec. 90.61 Paving in front and rear yards in H30 and H40 Districts

90.61.1 Front setbacks in the H30A, H30B, H30C or H40 districts shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater.

- a. Not less than thirty (30) percent of the front yard shall be landscaped.
- b. Not less than twenty (20) percent of the rear yard shall be landscaped.
- c. No front yard shall be accessible by vehicles from a public street by more than two (2) curb cuts.
- d. No curb cut shall be located within five (5) feet of a side lot line.
- e. Where there is a single curb cut for any one property, the curb cut shall not be more than eighteen (18) feet in width.



- f. Where there are two curb cuts for any one property, the curb cuts shall not be more than twelve (12) feet in width, and there shall be at least twelve (12) feet between curb cuts. Where a driveway is installed with two (2) curb cuts, a landscaped island containing at least sixty (60) square feet shall be provided between the curb cuts in the front yard area, extending from the front property line to the paved area.
- g. On corner lots where vehicular access and off-street parking are provided in a side yard, these same regulations shall apply also to the side yard. Such side yards shall not be more than fifty (50) percent paved over with any type of material that is not readily permeable by rainwater and groundwater and not less than thirty (30) percent of the side yard shall be landscaped.

Sec 90.62

Outdoor lighting

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

- a. Plans indicating the location of the lighting fixtures; type of lights, height of lights and levels of illumination; shade, type and height of lighting poles; and bases, deflectors and beam directions shall be submitted to the Town Manager or designee for approval.
- b. Lighting fixtures and lighting poles, including mounting bases, shall not exceed eighteen (18) feet in height from grade, shall be of decorative nature and shall be in harmony with the site architecture design, the adjacent area and the neighborhood. Decorative lighting poles and bases shall be constructed of anodized aluminum, pigmented concrete, fiberglass or other materials of similar characteristics as approved by the Town Manager or designee.
- c. Outdoor lighting shall be designed so that any overspill of lighting onto adjacent properties shall not exceed one half (1/2) foot-candle (vertical) and one half (1/2) foot-candle (horizontal) illumination on adjacent properties. An outdoor lighting installation shall not be placed in permanent use until a letter of compliance from a registered architect or engineer is provided to the Town Manager or designee, certifying that the installation has been field-checked and meets the requirements set forth above.
- d. The Town Manager or designee may issue a permit for such proposed outdoor lighting, if, after review of the plans and after consideration of the design characteristics of the lighting fixtures and lighting poles and bases, they are found to be in harmony with the site architecture design, the adjacent area and the neighborhood, will be deflected, shaded and focused away from adjacent properties; and will not be a nuisance to adjacent properties and traffic.
- e. All of the foregoing installations shall conform to the Florida Building Code.
- f. Lighting on properties designated H120 shall provide fixtures and shields to maintain light shed cut offs in accordance with regulations of the Department of Environmental Protection, specifically as it relates to properties fronting or adjacent to turtle nesting habitats



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- Sec. 90.63** **Miscellaneous elevations for seawalls, and groins**
90.63.1 The elevation for the top of shore end of all groins or other shore protective work shall be plus five (5) feet above mean low water.
- 90.63.3 The elevation for the top of seaward end of all groins and other shore protective work shall be plus two and one half (2 ½) feet above mean low water.
- 90.63.4 The elevation of the top of all seawalls fronting on the waters of Biscayne Bay, Indian Creek and Point Lake shall be plus five (5) feet above mean low water.
- Sec. 90.64** **Combined lots**
Where two (2) or more parallel adjoining and abutting lots under a single ownership are used, the exterior property lines so grouped shall be used in determining setback requirements. Provided, however, that no structure shall be constructed, altered or maintained on a single lot in any zoning district which does not conform with the setback requirements applicable to such lots, irrespective of the common ownership of abutting lots, unless and until a restrictive covenant running with the title to such lots, assuring obedience to setback requirements in a form acceptable to the Town Attorney or designee, shall first have been recorded in the public records of Miami-Dade County, Florida. Joined in such a restrictive covenant must be effected by all interested parties, including, but not limited to, dower, lien-holders, mortgagees, and all others claiming any right, title or interest in and to such real property.
- Sec. 90.65** **Boat storage**
No more than one (1) boat, not over twenty (20) feet in length may be parked temporarily on any lot in the H30A or H30B districts subject to the following conditions:
- a. Boats and places of parking shall be kept in a clean, neat and presentable condition.
 - b. No major repairs or overhaul work shall be made or performed on the premises.
 - c. Boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
 - d. The place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be within the required setback area, and no parking of boats shall take place on any public right-of-way.
 - e. The parking, storage or keeping of any boat or watercraft of any kind, or boat trailer, shall not be permitted for a period of more than four (4) hours unless they are fully enclosed within the confines of a garage.
 - f. Notwithstanding the time limitations set forth herein, boats stored temporarily on any lot in the H30A or H30B districts shall be removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.
- Sec. 90.66** **Temporary storage of campers and house trailers**
90.66.1 No house car, camp car, camper or house trailer, nor any vehicle or part of a vehicle designed or adapted for human habitation by whatever name known, whether such vehicle moves by its own power or by power supplied by a separate unit, which exceeds twenty (20) feet in length or eight feet (8) in height, shall be kept or parked on public streets or public property anywhere within the Town, nor on private property in the H30A or H30B districts, for more than twenty four (24) hours within a calendar week beginning at 12:01 a.m. Sunday and ending at 12:00 a.m. on Saturday.



90.66.2 No house car, camp car, camper, house trailer, or any similar vehicle shall be attached to any public or private external source of electricity, water, gas or sanitary sewer at any time, except that an electrical connection may be made for the sole purpose of recharging a vehicle's storage batteries.

Sec. 90.67 Emergency power generators

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

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

Article VI

Signs

Sec. 90.68

General and miscellaneous provisions

- a. Scope: The provisions of this Division shall govern the number, size, location, and character of all signs which may be permitted either as a main or accessory use under the terms of this Division. No signs shall be permitted on a plot or parcel either as a main or accessory use except in accordance with the provisions of this Division.
- b. Purpose: This Division shall be known as the "Town of Surfside Sign Code." The Town Commission determined there was a need to amend



its sign regulations to address recent federal cases addressing sign regulation in the Eleventh Circuit Court of Appeals. The Town Commission found and determined that the Town's sign regulations were always intended to maintain and improve the aesthetics, quality of life, and safety of the Town and its residents, while meeting the need for signage that clearly identifies locations, advertises businesses, and otherwise communicates commercial and noncommercial messages recognizing that the sign regulations were designed to advance the governmental purpose of aesthetics, which has long been upheld by the state and federal courts.

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

Because sign regulations have been held to advance these aesthetic purposes and advance the public welfare in *City of Lake Wales v. Lamar Advertising Assn of Lakeland, Florida*, 414 So. 2d 1030 (Fla. 1982); and because the Town Commission found and determined that the Town's zoning regulations are required to regulate signs as provided by Sign Code 163.3202(2)(f), Florida Statutes, the Town Commission found and determined that this Sign Ordinance is consistent with all applicable policies of the Town's adopted Comprehensive Plan.

The Town Commission also found and determined that the Town has consistently adopted severability provisions in connection with its Code of Ordinances and Zoning Code, and that the Town wishes to assure that its severability provisions will be applied to its Zoning Code, including its sign regulations in Chapter 90 as provided in subparagraph d. The Town Commission recognizes that in several recent judicial decisions, the courts have failed to give full effect to severability provisions applicable to sign regulations, and expressed uncertainty over whether a local governments intent to apply the severability clause to certain factual situations despite the plain and ordinary meaning of the severability clauses.

The Town Commission is aware that the failure of some courts to apply severability clauses has led to an increase in litigation by billboard developers and other applicants seeking to strike down sign regulations in their entirety so that they may argue that their applications to erect billboards or other signs must be granted. Accordingly, the Town Commission desires that there be an ample and unequivocal record of its intention that the severability clauses it has adopted related to its sign regulations shall be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances, or other sign provisions are invalid or unconstitutional for any reason whatsoever.

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



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

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

- c. Substitution of noncommercial speech for commercial speech: Notwithstanding any provisions of this Division to the contrary, to the extent that this Division permits a sign containing commercial copy, it shall permit a noncommercial sign to the same extent. The noncommercial message may occupy the entire sign area or any portion thereof, and may substitute for or be combined with the commercial message. The sign message may be changed from commercial to noncommercial, or from one noncommercial message to another, as frequently as desired by the sign's owner, provided that the sign is not prohibited and the sign continues to comply with all requirements of this Division.
- d. Severability:
 - 1. Generally: If any part, Division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, division, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Division.
 - 2. Severability where less speech results: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions on the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to these sign regulations even if the result would be to allow less speech in the Town, whether by subjecting currently exempt signs to permitting or by some other: .
 - 3. Severability of provisions pertaining to prohibited signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance. The Town Commission specifically intends that severability shall be applied to 90-73, "Prohibited Signs," so that each of the prohibited sign types listed in that Section shall continue to be prohibited irrespective of whether another sign prohibition is declared unconstitutional or invalid.
 - 4. Severability of prohibition on off premises signs: This division shall not be interpreted to limit the effect of Section d. 1. above, or any other applicable severability provisions in the Code of ordinances or any adopting ordinance.
- e. *Definitions.*

Blade sign: small pedestrian signs typically supported by a decorative chain or bracket that project perpendicular from the face of the building, which are located above the storefront entry and are oriented to the pedestrian.



Cabinet or Box Sign: any sign, the face of which is enclosed, bordered, or contained within a box-like structure, frame, or other device.

Changeable Copy: a sign such as a movie marquee where slots are provided on a background for changeable letters to be added.

Community Interest Sign: a professionally prepared poster announcing an event of general public interest.

Construction Signs: a temporary sign identifying those engaged in construction or remodeling on a building site, including the developer, contractor, subcontractor, architect, engineer or artisans involved in the project.

Directory and Upper Floor Signs: a non-residential sign that lists the tenants of a building on one sign.

Flag: a piece of fabric with a color or pattern that represents a government, or other noncommercial organization or idea.

Grand Opening Banner: a sign, with or without a frame and with or without characters, letters, symbols or illustrations, made of cloth, fabric, paper, vinyl, plastic or other rigid material for the purpose of gaining the attention or persons announcing a grand opening.

Menu Holders: a sign located on a wall indicating food items, products, services or activities provided on the premises.

Monument Signs: free-standing signs located adjacent to the sidewalk independent of the building.

Murals: a graphic, artistic representation painted on a wall, not including graffiti, which contains no advertisement or relationship to any product, service or activity provided, offered or available on the premises.

Nonconforming Signs: a sign or advertising structure which was lawfully erected and maintained prior to the current provisions or this Code regulating signs, which by its height, type, square foot area, location, use or structural support does not conform to the Town's sign requirements.

Off-Premise Signs: any sign advertising a commercial establishment, activity, product, service or entertainment, which is sold, produced, manufactured, available or furnished at a place other than on the property on which the sign is located. An off-premise sign is a principal use of the property in which it is located.

Pedestrian Sign: small signs, typically projecting signs supported by a decorative chain or bracket, which are located above the storefront entry, parallel to the sidewalk and are oriented to the pedestrian.

Political Sign: any sign which indicates the name, cause or affiliation of anyone seeking public office or which indicates any political issue.

Primary Occupancy Signs: the main sign used to identify a business. A primary sign is any sign painted on or attached to the face of the building including individually mounted letters, painted signs and awning signs.

Real Estate Signs: a temporary sign erected by the owner or agent indicating property which is for rent, sale or lease, including signs pointing to a property which is open for inspection by a potential purchaser (open house sign) or a sign indicating "shown by appointment only" or "sold."

Roof Sign: a sign erected over, across or on the roof of any building, which is dependent on the roof, parapet or upper walls of a building for support.



Sandwich or "A" Frame Sign: a movable sign not permanently secured or attached to the ground.

Sidewalk Café Signage: a sign located on an umbrella that is used as shelter for sidewalk tables.

Sign: any structure and all parts composing the same, together with the frame, background or support therefore, which is used for advertising or display purposes or any statutory, sculpture molding, casting or other objects used for advertising or display purposes, or any flags, bunting or materials used for display or advertising purposes, or for the purpose of attracting the attention of the public.

Sign Area: the square foot area enclosed by the perimeter of the sign structure. When a sign is composed of individual letters, symbols or logos only, the sign area is the area enclosed by a perimeter line (forming a single rectangle or square) enclosing all letters, symbols and logos. When a sign is a ground sign, the square foot area from the ground to the maximum height multiplied by the width equals the sign area.

Snipe Sign: a sign which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, walls, trash receptacles or fences, or to other objects, and the advertising matter appearing thereon is not applicable to the present use of the premises upon which such sign is located. Legal notices required by law are exempt.

Temporary Signs: include a Grand Opening Banner, Community Interest Sign on Private Property, Construction Signs, Political Sign and Real Estate Signs. Temporary signs are allowed for a limited amount of time.

V-Box: a single triangular sign at one location that is at an angle of forty-five (45) degrees or less to each other.

Window Signs: any sign placed within a window facing the street.

Sec. 90.69

Sign Design Parameters

- a. All signs, unless otherwise exempt, shall be subject to review by the Design Review Board.
- b. Use of streets, waterways, sidewalks and other public property. Except as otherwise authorized by the Town Commission, no sign of any type shall be suspended across any public street, alley or waterway; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any curb, sidewalk, tree, light standard, utility pole, hydrant, traffic signal device, street sign and its pole, bridge, wall, or any other structure, which is within the property lines of any street, alley, waterway or other public property within the Town.
- c. Use of vacant lots, unoccupied buildings or temporary structures. Except as provided by Section 90.74 no sign of any type shall be suspended across any vacant lot, unoccupied building or temporary structure; nor shall any sign of any description be stenciled, written, painted, posted, printed, nailed or otherwise affixed to any vacant lot, unoccupied building or to any temporary structure within the Town.
- d. Removal of sign upon cessation of business. Any sign previously associated with a vacated premises shall either be removed from the premises by the owner or lessee not later than six (6) months from the time such activity ceases to exist, or such sign shall be altered or resurfaced by the owner or lessee within the same six (6) month period,



so that the sign no longer displays letters, numerals, symbols, figures, designs or any other device for visual communication that pertains to the activity formerly associated with the vacated premises. No occupational license shall be issued for a new business until all signs associated with the former business have been removed.

- e. Pest control or warning signs. All such signs shall be displayed prominently on the front lawn of property requiring this service. Signs shall not exceed a size of 8" by 10". The printed wording shall read horizontally only and shall contain only such language as is required by law or by reasonable safety precautions and a statement of the antidote to the insecticide used. The word "WARNING" shall occupy one half of the sign and the name and address of the company performing the service only one fourth of the sign, it being intended that the word "WARNING" shall be most prominent. Further, it shall be required that such sign be removed from the premises no later than twenty four (24) hours after the warning is no longer required.
- f. Definition of frontage. For the purpose of determining total sign area, running foot of frontage shall include that side of the building or lot that faces on a public street. When the building or lot is on a corner, the footage of each street shall be included in determining the total allowable frontage.

Sec. 90.70

Sign Permits

- a. Permit required. Except as provided in this Code, no permanent or temporary sign shall be erected, constructed, posted, painted, altered, maintained, or relocated until a permit has been issued by the Town. Before any permit is issued, a written application, in the form provided by the Town, shall be filed, together with such drawings and specifications as may be necessary to fully advise the Town with the location, construction, materials, manner of illuminating, method of securing or fastening, the number of signs applied for, the consent of the property owner, and the wording of the sign. Upon the submission of an application, staff shall have ten (10) days to determine whether it is complete. If staff finds that the application is not complete, they shall provide the applicant with written notice of the deficiencies within the ten (10) day period. Upon resubmission of the application, staff shall have five (5) additional days to determine whether the applicant's revisions are sufficient to complete the application. If they are not, staff will again inform the applicant of any remaining deficiencies in writing. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed "as is." All signs that are electrically illuminated shall require a separate electrical permit and inspection.
- b. Code requirements. Structural and safety features and electrical systems shall be in accordance with the requirements of the Town's adopted Building Code. No sign shall be approved for use unless it has been inspected and found to be in compliance with all the requirements of this chapter and applicable Codes.
- c. Permit review. Unless otherwise exempt, the Design Review Board shall review the sign to determine if the proposed sign is in compliance with the design review criteria.
- d. Failure to commence. Every sign permit issued by the Town shall become null and void, if installation is not commenced within ninety (90) days from the date of such permit. If work authorized by such permit is



suspended or abandoned for ninety (90) days any time after the work is commenced, a new permit including Design Review Board approval shall be first obtained to do so, and the fee will be the full amount required for a new permit for such work.

- e. Revocation. The Town may suspend or revoke, in writing, a permit issued under provisions of this chapter, whenever the permit is issued on the basis of a misstatement of fact or fraud. The written revocation shall describe the appeal process. The Town shall send the revocation by certified mail, return receipt requested, to the sign owner. Any person having an interest in the sign or property may appeal the revocation, by filing a written notice of appeal with the Town Commission within fifteen (15) days after receipt of the written notice of revocation. The Town Commission shall hear the appeal within thirty (30) days after the date of receiving the written notice of appeal.

Sec. 90-71

Permanent Signs by District

90.71.1

SD-B40 Zoning District

- a. Area.
 - 1. The total area of all exterior wall signs for any building in the SD-B40 zoning district shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, a sign up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however shall the total sign area for any operating enterprise exceed one hundred fifty (150) square feet, and no single sign in this district shall exceed forty-five (45) square feet in area.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises.
- c. Prohibited word content. Signs may not include the following:
 - 1. Any reference to price, except as provided in regards to "Window Signs."
- d. Miscellaneous.
 - 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in this district stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 - 1. With the exception of theater marquees and V-Box signs, no sign shall be erected so that any portion thereof shall project over a dedicated street or sidewalk or so that any portion thereof shall project more than five (5) feet from any main building wall.
 - 2. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located; provided, however, that signs may be installed on the rear walls of commercial buildings in Blocks number 3, 4, 5, and 6 of Altos Del Mar Subdivision Number 6, in the Town. Such signs shall be limited to a maximum size of twenty-five (25) square



feet and may be illuminated by a bulb with an angle reflector type shield. These signs shall not be included in computing maximum sign area for a given operating enterprise.

- f. Window signs.
1. It shall be unlawful for temporary signs of any nature to be attached by any: to glass windows or doors, or to be mounted within twelve (12) inches of the glass window or door towards which they face, except as provided in this subsection.
 2. Temporary paper signs announcing a licensed going-out-of-business sale or future business shall be permitted to be displayed within glass display windows of such business establishments not to exceed twenty (20) percent of the area of the glass.
 3. Temporary signs, professionally lettered, may be displayed within a window providing they are more than twelve (12) inches from the glass surface they are facing, and providing that in total they do not exceed in area twenty (20) percent of the area of the glass window they are facing. A temporary sign not exceeding one hundred forty four (144) square inches may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall be not more than one (1) such sign per window or door. Such sign shall not be maintained for more than fourteen (14) calendar days.
 4. Signs, not in excess of six (6) square inches, listing price, may be attached to items displayed in display windows.
 5. Signs of a permanent nature may be applied to the inside or outside surface of a glass window or door or displayed within twelve (12) inches of a glass window or door, provided that they are done in a professional manner, that the lettering does not exceed eight inches in height and that they give only the name of the establishment and the nature of the business, except sit-down restaurants may display a menu in their window or adjacent to their front door which does not exceed one and one half (1 1/2) square feet in size. Lettering not more than two (2) inches in height may be applied to either side of one window or glass door per business stating hours of operation. No other type of sign stating hours of operation or "open," "open for business," "closed," or similar signs may be displayed except as provided. Such signs shall not exceed twenty (20) percent of the area of the glass window or door in which they are displayed. In addition, each business establishment may display, at a single location on a glass window or door, not over four (4) ancillary decals, signs or logos, indicating national charge cards which are accepted therein, provided the total area of all such decals, signs or logos so displayed does not exceed one hundred and forty-four (144) square inches. The area of such decals, signs or logos shall not be included in the twenty (20) percent limitation above. Not more than one (1) primary sign may be displayed in any one window or door. All such signs shall require a permit approved by the Town Manager or designee.
- g. Lettering on awnings. Lettering shall be prohibited on awnings, canopies or valances projecting over a dedicated street or sidewalk; except that the side, perpendicular to the street, may bear the trade name of the establishment in letters not higher than five (5) inches. Where an existing awning, canopy or valance is being replaced or recovered or



substantially repaired, a permit is required from the Town, and the awning, canopy or valance must conform to this Section.

- h. V-Box signs. Any ground floor business in the SD-B40 district may attach a single sign, commonly known as a V-Box sign, of triangular section, containing a completely concealed fluorescent tube, to a permanent canopy over the sidewalk. Such sign shall be mounted perpendicular to the face of the building to which the canopy is attached, with an end (smallest side of the sign) facing the building. Such sign shall not exceed four and a half (4 1/2) feet in length and twelve (12) inches in depth, and shall allow at least an eight (8) foot clearance above the pavement. The sign shall carry only the business name.
- i. Sign for upper floor tenants. Each upper floor tenant shall be entitled to erect a single sign, not over one hundred eight (108) square inches in size, at the entrance or lobby of the building which provides egress to such upper floor. In addition, each upper floor tenant may paint a sign on one upper floor window of this establishment, which indicates the name of his business, provided such sign meets all of the requirements of this Section.

90.71.2

H30C, H40, MU and H120 Districts

- a. Area.
 - 1. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted. In no case, however, shall total sign area on any single operating enterprise exceed one hundred fifty (150) square feet, except as otherwise provided in this Code. For multi-family dwellings in the H30C or H40 districts, total signage shall not exceed seventy-five (75) square feet and no single sign shall exceed fifty (50) square feet.
 - 2. Such signs shall be attached to the main facade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet, or shall be erected on a metal pole or reinforced concrete post, provided that no part of such sign shall project over a dedicated street or sidewalk. Any sign in need of replacement shall conform to this Section.
- b. Approved word content. Signs may include only the following:
 - 1. Trade name of establishment.
 - 2. Nature of business, services rendered or products sold on premises, except as otherwise provided in this Code.
 - 3. The total allowable area for all supplemental signs for any establishment hereunder reading "Vacancy," "Private Beach," "Swimming Pool," "Cabanas," "Office," "Air Conditioning," "Cocktail Lounge," "Coffee Shop," "Dining Room," "Restaurant" and other such wording shall be limited to eight (8) square feet for each main building, and such sign area shall not be included in computing the maximum sign area for the lot. In permitting the advertising by visible signs from the outside of buildings or structures presently zoned so as to permit the uses described herein, such signs shall be dignified in character, shall be restricted to the wording described above, and



no single sign shall exceed three (3) square feet in size; except, in the H120 district, a hotel with a restaurant may display a supplemental sign, not to exceed five (5) square feet in size, containing the name of the restaurant. Any such sign shall be included in the total eight (8) feet limitation.

- c. Prohibited word content. Signs may not include the following:
 1. Any reference to rates.
 2. Identification of a business conducted within hotels, apartment houses or similar structures, other than those permitted under supplemental signs, is not to be advertised by any sign visible from the outside of such building or structure in which such business is located.
- d. Miscellaneous.
 1. A sign not larger than sixteen (16) inches in width and five (5) inches in height, made of plastic or metal, may be affixed to the wall of buildings in these districts stating "Managed by _____" with the name of the individual, partnership or corporation that manages the building.
- e. Location.
 1. No sign shall be erected so that any portion thereof shall project over a dedicated street, alley or sidewalk or so that any portion shall project more than five (5) feet from any main building wall.
 2. One (1) sign may be erected on a metal pole with an area of not more than forty-five (45) square feet, including any supplemental signs; provided that no part of such sign shall project over a dedicated street, alley or sidewalk.
 3. Signs shall not be placed on or near the rear of a lot or building so as to face a designated zoning district other than the one in which the sign is located.
 4. Signs not over four (4) square feet in size may be erected at each exit or entrance of parking lots serving buildings in these districts, and such signs may be illuminated by indirect lighting only. Lettering on these signs shall be limited to the name and address of the apartment or hotel, the word "Parking," and the words "For Guests Only" or "Private Parking," and designation as to whether it is an entrance or exit.
 5. Buildings on the east side of Collins Avenue abutting the beach walking path shall be required to provide emergency signage for the purpose of identifying the names and addresses of the building. The purpose is to provide Fire trucks, police patrol cars, ambulances, and other emergency vehicles knowledge of their location at all times to quicken response time in critical situations. The signage shall be subject to the following limitations:
 - a. Maximum size of eighteen (18) inches long by twenty-four (24) inches wide
 - b. Material shall be reflective to be clearly visible at night
 - c. Material shall be weatherproof
 - d. Signage shall be on a free-standing pole



- e. The address lettering and numbers shall be no more than two (2) inches in height
- f. The condominium name shall be no more than one (1) inch in height

6. Monument Signs

- a. Monument signs shall be permitted in the H30C, H40, MU and H120 districts and are subject to the following restrictions:
 - 1. One (1) sign per street frontage
 - 2. Maximum sign area is twenty-five (25) square feet
 - 3. Maximum height is five (5) feet
 - 4. Signs shall maintain a five (5) foot setback from all property lines and no portion shall be permitted to project within this five (5) foot setback area.

90.71.3 H30A and H30B Districts

- a. Home Office signs shall not be allowed.
- b. The total area of exterior signs for any building shall be limited to one (1) square foot for each running foot of frontage of the lot or portion of lot upon which the operating enterprise is located. Whenever the running footage is less than twenty-five (25) feet, total sign area of up to a maximum of twenty-five (25) square feet shall be permitted.
- c. Such signs shall be attached to the main façade of the building or to a canopy covering the main entrance to the building and shall not project into the required front yard for a distance of more than two (2) feet. Any sign in need of replacement shall conform to this Section.

Sec. 90.72 Exempt Signs

90.72.1 The following signs are exempt from permitting requirements:

- a. Open/closed sign
- b. Hours of operation and credit card information, provided that sign does not exceed two (2) square feet
- c. Real estate signs, however if they are found to be in conflict with the provisions of the Code, the Town Manager or designee shall request the removal of the sign.
- d. Temporary signs

Sec. 90.73 Prohibited Signs

90.73.1 No sign shall be erected, constructed, or affixed in violation of the provisions of these regulations, and any sign not specifically provided for and permitted by these regulations shall be prohibited. None of the following signs shall be constructed, erected, used, operated or maintained in the Town:

- a. Billboards
- b. Temporary sign or sandwich sign except as permitted under 90-74.
- c. Off-premises signs
- d. Signs which simulate, copy or imply any official traffic signal or police caution device.
- e. Signs that contain obscene matter, or contains wording which violates any federal, state or county statute, ordinance or rule and it shall be unlawful for any person to display upon any wall or other advertising structure any



matter which is obscene or wording which violates any federal, state or county state ordinance or rule.

- f. Signs that display intermittent lights, to move or revolve.
- g. Signs which contains wording which constitutes fraudulent or misleading advertising.
- h. Sign which have spinning devices, or strings of spinning devices, or other similar devices.
- i. Signs which are not securely affixed to the ground, or otherwise affixed in a permanent manner to an approved supporting structure.
- j. Roof signs
- k. Pennants, banners, streamers, balloons and all other fluttering, spinning or similar type signs and advertising devices, except for national flags.
- l. Neon signs

Sec. 90.74 Temporary Signs

90.74.1 Real Estate Signs

- a. No more than one (1) real estate sign per occupancy frontage shall be permitted until a project or tenant space is leased or sold in the SD-B40 district.
- b. Maximum sign area per sign is one (1) square foot by one and a half (1 1/2) square feet in the Business District (SD-B40), and shall be located flat against the building wall or within a window, and shall not project above the eave line.
- c. The sign shall be unlighted.
- d. Lots in the residential districts may mount the sign on a free-standing stakes, located outside of any sight visibility triangle so no portion of the sign extends across the property line. Such sign shall not exceed one (1) square foot by one and a half (1 1/2) square feet in size and shall not exceed thirty-six (36) inches in height above the adjacent ground. The face of the sign shall be a sound and safe material that is securely fastened to a wood or metal stake of sufficient strength.
- e. All real estate signs shall contain a white background with black text. There shall be no pictures or graphics on the sign.

90.74.2 Political Signs

- a. Signs shall not be erected or displayed more than ninety (90) days prior to the primary or general election at which the candidacy or issue being advertised is decided and all such signs shall be removed within seven (7) days after the aforementioned election.
- b. No more than one (1) sign for each candidate or issue is permitted on any developed or undeveloped property under single ownership or tenancy.
- c. No sign shall be closer than ten (10) feet from any lot line.
- d. Political signs shall not be larger than eighteen (18) inches by twenty-four (24) inches in size in the residential districts and four (4) square feet in the Business District (SD-B40). Political signs in the Business District (SD-B40) shall be located flat against the building wall or within a window, and shall not project above the eave line.

90.74.3 Removal

Notwithstanding the time limitations set forth herein, all temporary signs shall be removed immediately upon the issuance of a hurricane warning by a recognized government agency. If the Town Manager or designee determines



that an emergency, other than a hurricane warning by a recognized government agency, provides sufficient cause to exceed the time limitations which would otherwise apply, the Town Manager or designee may permit a temporary sign to remain at a site for a period in excess of such time limitations.

Sec. 90.75

Non-Conforming Signs

Any additional development of a site, or change of use, occupancy, tenant, or sign copy (with the exception of window signs) shall require that legally established, nonconforming signs shall be removed and replaced with a conforming sign. Nonconforming signs must conform to these regulations or be removed within one (1) year of the date the sign became nonconforming. A sign must have had written Town approval to be considered nonconforming. Signs not in conformance with the Code which were installed without written Town approval are illegal and must be removed or replaced immediately. Illegal signs are subject to removal by the Town at the cost of the owner and subject to code enforcement action.

Sec. 90.76

Sign Construction and Maintenance

- a. All signs shall be professionally constructed of high-quality, durable material in accordance with the Florida Building Code.
- b. Sign switches conduits and panel boxes shall be concealed from view.
- c. Signs shall be designed to be vandal and weather resistant.
- d. Signs shall be properly maintained so that they are in proper working order and do not endanger public safety. Damaged or defective signs shall be repaired within thirty (30) days.
- e. When a sign is removed for example due to replacement, or termination of the lease, the tenant or owner shall fill and paint any holes caused by the removal of the sign.
- f. All exterior electrical outlets for signs shall terminate in a galvanized or plastic box with a blank cover, which shall be flush with and not protrude beyond the finished surface of the exterior wall. Transformer boxes and other accessory equipment for any sign shall be placed so as not to be visible from the street level. Wooden signs shall not have electric lights or fixtures attached in any manner.
- g. Illuminated signs, or illumination in show windows, display windows and displays, in or upon any building or structure shall have the source of light concealed from view from the exterior of the building or structure, except that where channel letters or figures are used for any sign, the illumination thereof may be visible if recessed within the depth of the channel. Intensities of illumination in all cases shall be approved by the electrical inspector of the Town before issuance of the sign permit.
- h. Only lighting of fixed intensity shall be supplied to signs while illuminated and the use of any blinking, moving or flashing light or lights, or similar device, in window areas or store fronts is prohibited, except decorative flashing illumination may be used between December 10 and January 5.



Article VII Off-Street Parking and Loading

Division I Off-Street Parking

Sec. 90-77 Off-street parking requirements.

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

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

1. H30A and H30B districts: 2 spaces minimum.
2. H30C, H40 and H120 Districts:

Type of Residential Unit	Minimum Space Requirements
Single-family or Two-family	2 spaces
Multi-family – Efficiency and 1-bedroom	1.5 spaces
Multi-family – 2-bedroom and 3-bedroom	2.0 spaces
Multi-family – 4-bedrooms or more	2.25 spaces

90.77.3 For projects of greater than sixty (60) dwelling units, parking spaces may be provided as tandem spaces, provided, however, a minimum of one (1) unencumbered parking space, tandem or regular, must be provided for each dwelling unit and valet parking service shall be provided at all times. One visitor parking space for each fifteen (15) dwelling units unless tandem parking with valet services is provided in which case one (1) visitor space for each twenty (20) units is required.

90.77.4 Parking by use
a. Lodging

Type of Use	Space Requirements
Hotel and motel	1 space for each room
Suite-Hotels	1.25 space for each room

b. Place of Public Assembly

Nature of use of space	Space Requirements
Where seats and/or benches are provided	1 space for every 4 seats or 1 space for every 6 linear feet or part thereof of bench
Where fixed seats are not provided	1 space for each 50 square feet of non-administrative and congregation space



c. SD-B40 District

Type of Commercial Use	Space Requirements
Grocery, fruit or meat market	1 space each 250 gross floor area
Retail store or Personal service establishment	1 space each 300 gross floor area
Office or Professional services use, except Financial institutions	1 space each 400 gross floor area
Medical or Dental uses	1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises	1 space for every 4 seats
Financial institutions	1 space each 300 gross floor area
Educational services	1 space per classroom, plus 1 per 250 gross floor area

Sec. 90.78

Interpretation of these requirements

- a. The parking required herein is in addition to space required for the loading and unloading of trucks or other vehicles used in connection with a business, commercial, or industrial use.
- b. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- c. The parking space requirements for a use not specifically listed in this Section shall be the same as for a listed use of similar characteristics of parking demand generation.
- d. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- e. Whenever a building or use, constructed or established after the effective date of this Article, is changed or enlarged in floor area, number of dwellings or sleeping units, seating capacity or otherwise, to create a requirement for an increase in the number of required parking spaces, such spaces shall be provided on the basis of the enlargement or change.
- f. Where a place of public assembly, as defined in Section 90-2 of this Code, has been in existence for at least ten (10) years and a variance from the parking requirements of this chapter is requested, hardships pertaining to the variance request shall not be considered self-created for purposes of consideration of the merits of the variance request.

Sec. 90.79

Restricted and prohibited parking

90.79.1

Off-street parking spaces in H30A and H30B districts shall not be located in a required front yard except as follows:

- 1. Driveway space for access to parking areas or garages located in a required front yard.
- 2. It shall be unlawful to park vehicles of any type in private driveways or front yards in said districts unless they belong to the occupant of such residence, a member of his immediate family, a resident of the household residing on the property, or a bona fide guest or visitor thereof.
- 3. When an automobile vehicle or motorcycle has been parked in violation of this Section intermittently or continuously during a period of three (3) weeks



and such vehicle is registered in the name of a person other than to the occupant of the property, a member of immediate family or a resident of the household residing on the property, it shall constitute in evidence a presumption that such vehicle is unlawfully parked in violation of this Section.

4. No trailer of any type may be kept in any required yard continuously for more than seventy-two (72) hours, except as may be provided in Sections 90-64 and 90-65. All trailers must display a valid license plate and registration decal as required by state law, be in operating condition and be supported by fully inflated tires on functioning wheels.

90.79.2 Where off-street parking spaces serve an existing permitted structure located in the H30C, H40 or H120 districts and occupy all or portions of the required front yard, such use may be continued until the existing structure is removed.

90.79.3 No motor vehicle, as defined by state law, shall be kept in any unpaved area of any lot or parcel in the Town.

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

90.79.5 The off-street parking of trucks and other commercial vehicles, in excess of what is commonly known as a three-fourth-ton truck or vehicle, or any other equipment used for commercial purposes, is prohibited in anywhere in the Town, except in the SD-B40 wherein the vehicle is in the process of making an expeditious delivery, rendering services to the premises (such as electrical, plumbing or yard work) or continuously and completely enclosed within the confines of a permitted garage.

Sec. 90.80 Joint use and off-site facilities

90.80.1 All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located and maintained not to exceed three hundred (300) feet from the building served.

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

Sec. 90.81 Shared Parking

1. Properties owned by a single entity or subject to a cross access/cross parking agreement may petition the Town Commission for approval of shared parking. The petition for shared parking shall include an independent parking study in a form acceptable to the Town which includes but is not limited to information indicating that the uses are such that a sufficient disparity in peak demand for parking spaces exists to support the concept of shared parking.
2. Required parking spaces may be permitted to be utilized for meeting the parking requirements of two or more separate permitted uses when it is clearly established by the applicant that the two or more uses will utilize the spaces at different times of the day, week, month, or year. A recordable



covenant, with the correct legal description, shall be submitted by the owners of the property and the two or more businesses or tenants involved in a form acceptable to the office of the Town Attorney. The covenant shall be recorded in the public records of Miami-Dade County at the applicant's expense, and shall run with the land. The covenant shall provide that the use or portion of a use that requires the shared parking in order to obtain the necessary permits or licenses shall cease and terminate upon any change in their respective schedules of operation that results in conflicting or overlapping usage of the parking facilities, and no non-residential use may be made of that portion of the property until the required parking facilities are available and provided. The covenant shall also provide that the Town may collect attorney's fees if litigation is necessary to enforce the requirements of this Section.

3. No part of an off-street parking area required for any building or use by this Section shall be included as a part of an off-street parking area similarly required for another building or use unless the type of use indicates that the periods of usage will not overlap or be concurrent with each other as determined by the Town.

Sec. 90.82 Design standards

90.82.1 *Minimum area.* For the purpose of these regulations, except as provided below, off-street parking spaces shall not be less than nine (9) feet by twenty (20) feet, exclusive of driveways, for the temporary storage of one (1) automobile. Aisles shall have dimensions as set forth in the Zoning Code of Miami-Dade County entitled "Minimum Parking Stall Dimensions," except as may be set forth below. Such parking spaces shall be connected with a street or alley by a driveway which affords ingress and egress without requiring another automobile to be moved. Handicapped parking spaces shall be consistent with Florida Accessibility Code requirements.

90.82.2 In all instances, adequate interior driveways and ingress and egress driveways shall be provided to connect all parking spaces with a public street or alley. Where a parking space heads into and abuts a sidewalk, the paved length shall be curbed in order to prevent extension of the vehicle over the sidewalk. Required parking shall comply with these provisions and such parking cannot be placed in dedicated or official rights-of-way. Private, noncommercial off-street parking shall be reserved exclusively for the tenant or owner and their customers and employees, unless otherwise approved as a result of a public hearing.

90.82.3 *Drainage and maintenance.* Off-street parking facilities shall be drained to prevent damage to abutting property and/or public streets and alleys and surfaced with a minimum of at least one (1) inch of asphalt concrete or a wearing surface on a six (6) inch compacted lime rock base. Off-street parking areas shall be maintained in a clean, orderly, and dust free condition at the expense of the owner or lessee and not used for the sale, repair, or dismantling or servicing of any vehicles, equipment, materials or supplies.

90.82.4 *Separation from walkways and streets.*

1. For properties designated H30A and H30B and for properties designated H40 east of Harding Avenue, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a minimum five (5) foot planted strip.
2. For properties designated H40, H30C, and H120, off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device.



90.82.5 *Entrances and exits.* Not more than one entrance or exit, not exceeding twelve (12) feet in width, shall be permitted for every fifty (50) feet of width of the parking lot.

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

90.82.7 *Lighting.* Adequate lighting shall be provided if off-street parking spaces are to be used at night. As provided in Section 90-61, the lighting shall be installed, maintained and regulated so as to reflect the light away from adjoining property and avoid annoyance to such premises.

90.82.8 *Screening.* Off-street parking lots with capacity for six (6) or more vehicles shall provide along the lot lines, except for ingress and egress, a visual screen with a height of not less than two (2) feet or more than three (3) feet. Such screen shall consist of a compact evergreen hedge.

90.82.9 *Extensions in certain districts.* Underground facilities in all districts except H30A and H30B district used primarily for off-street parking spaces may extend into the side and rear yards to the property lines, provided the top surface of such extensions is not more than five (5) feet above grade. However, where such extensions are used for driveways leading to building entrances, the top surface of such extensions shall not be more than eight (8) feet above grade. In all cases the front yard setback shall be landscaped in accordance with the landscape requirements of this Code.

Division II

Off-Street Loading

Sec. 90.83

Off-street loading requirements

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

Column 1 Use or Use Category	Column 2 Floor area as defined in 'Definitions', in Square Feet	Column 3 Loading Spaces Required in all Districts
Business, Commercial	10,000 - 60,000	1
Office Building	Greater than 60,000	2
Multi-family Dwelling Building	20,000 - 100,000	1
Hotel or Motel	Greater than 100,000	2

Sec. 90.84

Interpretation of the chart

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

Sec. 90.85

Design standards

90.85.1

Minimum size. For the purpose of these regulations, a loading space is a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum width of twelve (12) feet, a minimum



depth of thirty (30) feet, and a vertical clearance of at least fourteen and a half (14 1/2) feet.

90.85.2 *Drainage and maintenance.* Off-street loading facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys and surfaced with at least one (1) inch of asphalt concrete as a wearing surface on a six (6) inch compacted lime rock base.

Article VIII

Landscape Requirements

Sec 90.86

General

90.86.1

Purpose and intent.

The general purposes of this Section are as follows:

1. To encourage the establishment of a functional landscape and improve the aesthetic quality, thereby promoting the health and general welfare of its citizenry in the Town of Surfside;
2. To create and enhance the aesthetic subtropical character and identity distinctiveness of the Town of Surfside;
3. To design landscaping to enhance architectural features, relate structure design to the site, visually screen sites and unsightly views, reduce noise impacts from major roadways and incompatible uses, strengthen important vistas and reinforce neighboring site design and architecture,
4. To prevent the expansion of the listed pest plant species by prohibiting the use of noxious exotic plants which invade native plant communities;
5. To promote the use of more wind tolerant trees and proper horticultural planting methods in order to maintain a more sustainable landscape;
6. To promote Xeriscape principles through the use of drought-tolerant landscape species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and non-potable water supplies and restrictions on the amount of lawn areas;
7. To utilize landscape material, specifically street trees, to visually define the hierarchy of roadways, and to provide shade and a visual edge along roadways;
8. To prevent the destruction of the Town's existing tree canopy and promote its expansion to be valued and preserved for present and future generations;
9. To provide for the preservation of existing natural plant communities and re-establish native habitat where appropriate, and encourage the appropriate use of native plant and salt tolerant plant material in the landscape;
10. To promote the use of trees and shrubs for energy conservation by encouraging cooling through the provision of shade and the channeling of breezes, thereby helping to offset global warming and local heat island effects through the added absorption of carbon dioxide and reduction of heat islands;
11. To contribute to the processes of air movement, air purification, oxygen generation, ground water recharge, and stormwater runoff retention, while aiding in the abatement of noise, glare, heat, air pollution and dust generated by major roadways and intense use areas;
12. To improve the aesthetic appearance of the Town through the use of plant material, thereby protecting and increasing property values within the community;



13. To promote the concept of planting the right tree or plant in the right place to avoid problems such as clogged sewers, cracked sidewalk and power services interruptions;
14. To provide the physical benefits of using plant material as a function and integral part of the Town of Surfside's development;
15. To provide minimum standards for landscaping new developments or for redevelopment;
16. To promote water conservation and vegetation protection objectives by providing for:
 - a. The preservation of existing plant communities pursuant to the requirements of the Miami-Dade's Tree Preservation and Protection Ordinance;
 - b. The reestablishment of native plant communities;
 - c. The use of site-specific plant materials; and
 - d. The implementation of Xeriscape principles as identified in *South Florida Water Management District's Xeriscape Plant Guide II*, as amended, and as provided by law.

90.86.2

Definitions.

Accessway: a private vehicular roadway intersecting a public right-of-way.

Applicant: the owner or the authorized agent of the subject property.

Berm: a linear earthen mound measured from the crown of the road or abutting finish floor elevation and has a maximum slope of three (3) to one (1). The berm shall consist of clean fill composed of planting soil.

Buffer, perimeter landscape: an area of flat a grade or bermed land which is set aside along the perimeters of a parcel of land in which landscaping is required to provide an aesthetic transition between adjacent plots to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

Canopy: the upper portion of a tree consisting of limbs, branches and leaves.

Clear Trunk: the distance between the top of the root ball along the vertical trunk or trunks of a tree to the point at which lateral branching or fronds begin.

Clear Wood ("Gray Wood"): the portion of the palm trunk which is mature hardwood measured from the top of the root ball to the base of green terminal growth or fronds.

CPTED: the acronym Crime Prevention through Environmental Design; design approach to reduce crime and fear of crime by creating a safe climate within a building environment.

Diameter Breast Height (DBH): the diameter of the tree trunk(s) measured at four and one half (4 1/2) feet above grade.

Disturbed land/ground: any land where the original natural vegetation has been removed, displaced, overtaken or raked.

Functional Landscaping: the combination of living and nonliving materials that, when installed or planted, creates an ongoing system providing aesthetic and environmental enhancement to a particular site and surrounding area.

Groundcover: a dense, low-growing plant, other than turf, that, by the nature of its growth characteristics completely covers the ground and does not usually exceed two (2) feet in height.



Hedge: a dense row of evenly spaced shrubs planted to form a continuous, unbroken visual screen.

Impervious Area: An area covered by a material which does not permit infiltration or percolation of water directly into the ground.

Irrigation: the method of supplying plant materials with water other than by natural rainfall.

Landscape/Landscaping:

1. When used as a noun, this term shall mean living plant materials such as grasses, groundcover, shrubs, vines, trees or palms and nonliving durable materials commonly used in environmental design such as, but not limited to, walls or fences, aesthetic grading or mounding, but excluding pavers, paving, artificial turf, turf block, rocks and structures.
2. When used as a verb, this term shall mean the process of installing or planting materials commonly used in landscaping or environmental design.

Mulch: organic, arsenic free, material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and enrich the soil.

Multi-trunk Trees: a tree that has a minimum of three trunks with no more than five trunks of equal diameters originating from the ground and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.

Native habitat: an area enhanced or landscaped with an appropriate mix of native tree, shrub and groundcover species that resembles a native plant community in structure and composition or is naturally occurring.

Native Plant Community: a natural association of plants dominated by one (1) or more prominent native plant species, or a characteristic physical attribute as indicated by the Town of Surfside.

Native Plant Species: native plant species shall be those plant species indigenous to the ecological communities of South Florida, as indicated on lists provided by Town of Surfside, or that can be scientifically documented to be native to South Florida.

Open Space: all pervious landscape planting areas of the site.

Overall Height: the height measured from the ground to the bend of the top most branch of the tree. Overall height on palms: the measurement from the ground to the bend of the topmost frond.

Pervious areas: mean any portion of the ground unobstructed by a non landscape planting surface which prevents or slows down the natural seepage of water into the ground.

Planting Soil/Topsoil: a medium composed of fifty (50) percent sand and fifty (50) percent muck. Palm planting soils shall compose of no more than eighty (80) percent sand and remainder soil consisting of muck. It must be clear and free of construction debris, weeds and rocks, with a PH between six and one half (6 1/2) and seven (7).

Redevelopment: any proposed expansion, addition, or façade change to an existing building, structure, or parking facility. Redevelopment may also mean any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater control than the previous development. Exception to this definition, single family dwelling redevelopment would be



considered when seventy-five (75) percent or greater of the existing structure is knocked down.

Shrub: a self-supporting, woody plant full to the ground with three or more branches produced from the ground which could be maintained in a healthy state to the height indicated on the landscape plans.

Site-Specific Plant Materials: the use of plant species selected to minimize supplemental irrigation, fertilization and pest control.

Town: the department or division of the Town of Surfside government that the Town Manager has designated to enforce the Landscaping requirements of this Section.

Tree: a self-supporting, woody perennial plant, usually with one vertical stem or main trunk, which naturally develops a distinct, elevated crown and provides, at maturity, natural characteristics of the species.

1. Tree, Dicotyledonous (Dicot) is a tree having a woody stem and branches and leaves with net venation and having a separate, distinct outer bark which can be peeled from the tree.
2. Tree, Monocotyledonous (Monocot) is a palm or a tree having fronds with parallel venation and no true woody bark with a minimum overall natural height of ten (10) feet at maturity.

Tree Abuse:

1. Hat racking, flat-cutting the top of a tree, severing leader or leaders of a tree.
2. Pruning that reduces the total height or spread of a tree canopy by more than thirty (30) percent in one year.
3. Cutting upon a tree which destroys its natural habit of growth.
4. Pruning that leaves stubs or results in a flush cut or splitting of limb ends.
5. Peeling or stripping of bark or the removal of bark to the extent that if a line is drawn at any height around the circumference of the tree, over one third (1/3) of the length of the line falls on portions of the tree where the bark remains.
6. The use of climbing spikes, nails or hooks with the exception for the purposed of total tree removal.
7. Pruning that does not conform to the standards set by the American National Standards Institute (ANSI A300), as amended, with the exception of palm pruning which shall allow no pruning of fronds above the horizontal plane.
8. Using nails or other piercing devices for the purpose of attaching signage or any objects to a tree.
9. Girdling of trees by guying, staking, support, string trimmers, or non-removal of planting materials from the root balls.
10. Lawn mower string trimmer or deck damage inflicted on any portion of a tree.
11. Vehicular damage inflicted causing bark removal, tree leaning and/or destruction. Also, any damage and/or compaction of the roots by vehicular usage.
12. Structures being placed or constructed within a tree.



- 13. Utilizing any portion of a tree as a fence or similar structural support.
- 14. The use of oils, chemicals or other materials poured on the roots and/or trees. Also, the painting of trees with paint and/or other similar material.

Turf: the upper layer of soil matted with roots of grass and covered by viable grass blades.

Vegetation: angiosperms, gymnosperms, ferns and mosses.

Vehicular Encroachment: any protrusion of a motor vehicle outside of the boundaries of a vehicular use area into a landscape area.

Vehicular Use Area (VUA): an area used for loading, circulation, access, storage, parking, or display of any type of vehicle, boat, or construction equipment whether self-propelled or not.

Vine: any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

Xeriscape: a landscaping method that maximizes the conservation of water by use of site-appropriate plants and an efficient watering system.

Sec 90.87

Landscape permit plans

90.87.1

All buildings, structures, new developments, redevelopment and changes of use requiring a permit shall require submittal of a landscape and irrigation plan. Landscape and irrigation plans shall be prepared by a State of Florida registered Landscape architect. Landscape plans for H30A and H30B may be prepared by the owner of the property or a representative thereof, provided it meets the requirements per this Code. The use of a Landscape architect is encouraged.

90.87.2

All landscape plans shall meet the following requirements:

- 1. Shall be of the same scale as the site plan, but no smaller than one (1) inch equals fifty (50) feet. Recommended scale to be one (1) inch equals twenty (20) feet.
- 2. Location, condition, number, names, sizes, DBH and disposition of all existing trees and vegetation, to be preserved, relocated or removed. Also, provide all existing native plant communities to be preserved, relocated or removed.
- 3. Location and outline of existing buildings and site improvements to remain.
- 4. Location, condition, names, sizes, DBH, and disposition of existing trees, hedge, and site improvements along any abutting properties within twenty-five (25) feet of the property lines.
- 5. Location of all proposed or existing buildings and site improvements including but not limited to; parking spaces, access isles, drive ways, sidewalks and other vehicular use areas to remain or be removed.
- 6. A proposed plant list by symbol, quantity, required specifications, native or non-native, drought tolerance, salt tolerance, and botanical and common names. Also, the plant list must be indicated on all planting plan sheets.
- 7. A landscape calculation table indicating the minimum required and provided comparisons of the proposed plant material. Also, providing the gross and net acreages, buffer lengths, percentages of landscaping in the VUA, pervious area, street lengths, percentages of sod, native/drought tolerant percentages and landscape material size requirements.



8. Location and labeling of existing and proposed site lighting. Additionally, provide a minimum of fifteen (15) feet separation from the required or existing shade trees and seven and one half (7 1/2) feet from palms and small trees.
9. Location of existing and proposed fire hydrants and fire department check valves. Additionally, provide the minimum required seven and one half (7 1/2) feet clearance from all landscape material to the front and sides with four (4) feet clearance from the rear.
10. Location of existing and proposed easements, right of ways, drainage structures, overhead utility wires, underground utilities, above ground electrical elements, and transformers.
11. Location and details including type, height, color, and additional embellishments of walls, fences, gates, and signs.
12. All planting details and staking details, including but not limited to planting/staking specifications, general notes and tree protection barricade detail.
13. Existing or proposed water bodies and retention areas indicating the required four (4) to one (1) slopes.
14. Such other information that may be required to give a complete understanding of the proposed plan.

90.87.3

The irrigation plan shall meet the following requirements:

1. The same scale of the site plan, but no smaller than one (1) inch equals fifty (50) feet.
2. Location of existing trees, vegetation and native plant communities to remain, if applicable.
3. Location of existing buildings, paving, and site improvements to remain.
4. Location of proposed buildings, paving, site improvements, and water bodies.
5. Main location with sleeves, size and specifications.
6. Valve location, size and specifications.
7. Pump location, size and specifications or water source.
8. Backflow prevention device type and specifications.
9. Controller locations and specifications.
10. Zone layout plan (minimum scale 1" = 20"):
11. Provide one hundred (100) percent coverage and one hundred (100) percent overlap.
12. Indicating head-type, specifications and spacing
13. Indicate location and details of rain sensor, second water meter, and rainwater citrons; and
14. Indicating methods used to achieve compliance with Xeriscape principles as required by § 166.048 F.S.

Sec. 90.88

Installation of landscaping and irrigation

All landscaping and irrigation shall be installed according to accepted horticultural planting procedures with the quality of plant materials as hereinafter described, including:

1. Planting soil/topsoil shall be of the minimum quality as specified in the plant materials section of this Code. All trees, palms, shrubs, and ground



covers shall be planted with a minimum of twelve (12) inches or two (2) times the root ball of planting soil around root ball. A minimum of three (3) inches of shredded, approved arsenic free, organic mulch or groundcover shall be installed around each tree planting for a minimum of eighteen (18) inches beyond its trunk in all directions, including palms, and throughout all hedge, shrub, and groundcover planting. The use of mulch obtained from Melaleuca, Eucalyptus, or other invasive plant species is encouraged in order to reduce their impact on the environment and to preserve the remaining native plant communities.

2. All trees/palms shall be properly guyed and staked at the time of planting until one year from landscape final or establishment. The use of nails, wire or rope, or any other method which damages the trees or palm, is prohibited. All plants shall be installed so that the top of the root ball remains even with the soil grade or ten (10) percent or the root flare is visible above the surrounding grade. All synthetic string, synthetic burlap, cords, or wire baskets shall be removed before planting.
3. All parking islands, medians, and other landscape areas shall be installed with continuous Type "D" curbing to prevent damage to the plant material and the displacement of topsoil and mulch. Also, all landscape islands, divider medians, and planters shall be excavated of limerock and/or compacted soil to a depth of thirty (30) inches and backfilled with specified planting mix to the top of curb. Additionally, all areas along buildings shall be excavated to a depth of twelve (12) inches and backfilled with specified planting mix.
4. Garage and rooftop landscaping. Not less than fifty (50) percent of rooftop areas of buildings that are ancillary to and are visible from upper level dwelling or hotel units on the same site shall be screened or buffered through the use of landscaped horizontal trellis structure, shade or palm trees in irrigated planters, canopies, screening walls enclosing mechanical equipment and/or through the decorative surface treatments of float roof areas with patterns of gravel or other surfacing materials in varying shades and hues to create a graphic composition. Not less than fifty (50) percent of open rooftop parking on garage structures adjacent to upper level residential and hotel units shall be screened through the used of trellis structures, canopies or shade or palm trees in irrigated planters. All parking structures require irrigated planters with plant material that screens and buffer the parking structures on all sides.
5. All proposed multi-trunk trees shall have a minimum of three trunks with no more than five trunks of equal diameters originating from the base of the tree and with angles no greater than forty-five (45) degrees. NOTE: The Town can require either multi-trunk or single trunk on certain trees.
6. All proposed trees and palms shall not be planted under roof over hangs or balconies.
7. All proposed trees and palms within or overhanging pedestrian areas shall have a clear trunk high enough to allow unobstructed pedestrian movement under or around.
8. All proposed landscaping shall be installed with fertilizer which has trace minor elements in addition to a minimum six (6) percent Nitrogen (N) – six (6) percent Phosphorus (P) – six (6) percent Potassium (K) of which fifty (50) percent of the nitrogen must be derived from an organic source.
9. All proposed tot lots or pools shall be required to have a minimum shade requirement to allow persons to seek refuge from the sun.



10. Salt tolerant plant species is encouraged in all areas of the Town.
11. The concepts of Green Building Design and LEED are encouraged to help reduce water consumption, decrease fossil fuel burning, channel breezes, assist in cooling, create more pervious areas for drainage and promote more environmentally conscious.
12. All plant root ball sizes shall conform or exceeded the minimum standards in the current edition of Florida Grades and Standards.
13. All landscape areas with the exception of H30A, H30B and H30C (for single family and two family only) shall be provided with an automatically operating, underground, and rust free irrigation system designed to have one hundred (100) percent coverage with one hundred (100) percent overlap. Drip, trickle or other low-volume irrigations systems shall be permitted if designated on approved landscape plans and approved by the Town. Irrigation systems shall be designed to minimize application of water to impervious areas. All PVC risers shall be painted flat black
 - a. Pursuant to § 373.62, F.S., any irrigation system installed after May 1, 1991, shall install a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred.
 - b. Use of non-potable water, including, but not limited to, water from a canal, lake or a treated water source, in the irrigation of landscaped areas is required when determined to be available and safe.
 - c. Automatic controlling devices shall be used on all irrigation systems.
 - i. Preserved native habitats or native plant communities shall not be irrigated unless required by the Town.
 - ii. Recommend the use of a second water meter for irrigation to help reduce the cost of the watering the landscape. NOTE: The sewer usage cost is eliminated with this added meter.
 - iii. Encourage the use of rainwater cisterns to help save water, one of our greatest natural resources. Also, rainwater cisterns will help on reducing watering costs and the impacts of water restrictions on the landscaping. Cisterns shall be provided below grade and are permitted in all zoning districts.
14. Inspections of sites for landscape and irrigation installation:
 - a. A pre-inspection of the site with the landscape and irrigation contractor will be required to discuss all the Town requirements, answer any questions and determine site conditions for appropriate use and selection of landscape material prior to installation.
 - b. A final landscape and irrigation inspection will be required upon completion.

Sec. 90.89

Maintenance of landscaped areas

1. An owner of land subject to this Code shall be responsible for the maintenance of said land and landscaping so as to present a healthy, vigorous and neat appearance free from refuse and debris. All landscaped areas shall be sufficiently fertilized and irrigated to maintain the plant material in a healthy and viable condition. NOTE: All fertilizer shall be safe and environmentally friendly. Also, the applications shall conform to the manufacturer's specifications.
2. Three inches of clean, weed-free, arsenic free, organic mulch shall be maintained over all areas originally mulched at all times. Turfgrass shall be



kept trimmed and/or mowed regularly to a height not exceeding eight (8) inches above the ground. NOTE: If weeds, noxious grasses or underbrush are in excess of the eight (8) inches; it too will need to be cut and the weeds, noxious grasses and underbrush removed and re-sodded if necessary.

3. Irrigation systems shall be maintained to eliminate water loss due to damaged, missing or improperly operating sprinkler heads, emitters, pipes and all other portions of the irrigation system.
4. Preserved and created native plant communities shall be maintained in a natural state without the use of mechanical equipment.
5. An owner is responsible to ensure that landscaping that has been required to be planted pursuant to this Code, or installed in compliance with the landscape requirements previously in effect, be maintained in Florida Grade One condition, including but not limited to single-family residences, multifamily, or business sites. If landscaping is found to be in a state of decline, dead, damaged, or missing, it must be replaced with equivalent landscape material. If total replacement is required, species conforming to this Code shall be used. If any preserved vegetation dies which is being used to satisfy current landscape code requirements, such vegetation shall be replaced with the same landscape material selected from nursery-grown native stock only.
6. All trees shall be trimmed in accordance to Miami-Dade County tree preservation code. Any type of tree abuse/hatracking is prohibited within the Town.
7. Any trees and/or palms that are diseased (including dead palms with lethal yellowing) or trees and/or palms causing a possible safety hazard as determined by the Town are considered to be a public nuisance. The Town shall enforce the provisions of this Section. Any property owner of any lot or parcel of land in the Town shall promptly remove any such tree and/or palm after being notified by the Town. The Town is authorized and empowered to enter on any lot or parcel of land in the Town at any reasonable hour for the purpose of inspecting such trees and/or palms.
8. Shrubs and hedges shall be maintained that such plant materials do not obstruct clear sight triangles and promote vehicular and pedestrian visibility. Also, hedges planted along property lines shall be maintained and trimmed to prevent branches from extending over and/or touching structures on adjacent properties.
9. Any plastic or similar artificial landscape materials shall be prohibited with the exception of seasonal holiday decorative displays of less than sixty (60) days duration.
10. All property owners shall keep such property and the adjoining unpaved portions of the public right-of-ways, swales and bulkheads clean and free from any accumulation of garbage, trash, litter or debris.
11. All property owners within the Town shall not permit unattended vegetation upon the property, adjoining portions of the rights-of-ways, swales and canal banks.
12. All non-compliance with section of the ordinance shall be enforced in accordance with the Town's Code Enforcement Rules and Regulations.

Sec. 90.90

Plant material

90.90.1

Quality: Plant materials used in accordance with this Code shall conform to the standards for Florida Grade One, or better, (NOTE: Some proposed



landscaping can be required to be Florida Fancy) as provided for in the most current edition of *Grades and Standards for Nursery Plants*, 2nd edition, Feb. 1998, State of Florida Department of Agriculture and Consumer Services, as amended. Additional information not addressed in the Florida *Grades and Standards for Nursery Plants* shall refer to ANZI Standards Z60.1. Sod shall be green, healthy, clean and visibly free of weeds, noxious pests and diseases. It shall be solid St. Augustine "Floritam", "Palmetto," or Bermuda, laid on a smooth planting base with tight joints, at one hundred (100) percent coverage at time of planting and cut to fit all landscape planters and curb areas.

90.90.2 *Native Vegetation:* Fifty (50) percent of all vegetation, excluding all turf grass, required to be planted by this Code shall be indigenous to South Florida.

90.90.3 *Preserved/Created Native Plant Communities:* Native Plant communities shall be preserved or created. Sites which consist of five acres or more, where there is no viable native plant community, the applicant shall show on the landscape plan an area or areas equivalent to two and a half (2 1/2) percent of the site to be planted and preserved as an native plant community. Sites which consist of two (2) to five (5) acres may incorporate a native plant community into the landscape buffer or interior landscaping requirements.

90.90.4 *Trees:*

1. Shade/canopy tree: Shade/canopy tree shall be a minimum overall height of fourteen (14) feet, six (6) feet spread, two and one half (2 1/2) inches DBH and five (5) feet clear trunk. This category shall constitute twenty (20) percent of the minimum required trees.
2. Intermediate trees: Intermediate trees shall be a minimum overall height of twelve (12) feet, five (5) feet spread, two (2) inches DBH and four and one half (4 1/2) feet clear trunk. This category shall constitute twenty (20) percent maximum of the required trees.
3. Small trees: Small trees shall be a minimum overall height of ten (10) feet, four and one half (4 1/2) feet spread, one and one half (1 1/2) inches DBH and four (4) feet clear trunk. This category shall constitute no more than twenty (20) percent of the required trees.
4. Palms: Palms shall have a minimum of six (6) feet grey wood and shall constitute no more than forty (40) percent of the required trees. All palms with the exception of *Roystonea elata/regia*, *Phoenix canariensis*, *Phoenix dactylifera*, *Phoenix sylvestris*, *Phoenix reclinata*, *Wodyetia bifurcata*, and *Bismarckia nobilis*, shall be counted at three (3) for one (1) and planted with staggered heights NOTE: All proposed coconut palms shall be certified to be resistant to Lethal yellowing.
5. All landscaping including shrubs and groundcover shall be guaranteed for one year after final landscape inspection.
6. Street tree requirements:
 - a. Street trees shall be required at one (1) shade tree/palm tree per twenty (20) linear feet of street frontage thereof along all public or private street right-of-ways in all zoning districts.
 - b. ii. Street trees shall be of a species typically grown in South Florida that normally matures to a height of at least twenty (20) feet. Street trees shall have a clear trunk of over seven (7) feet, an overall height of fourteen (14-16) feet and a minimum of two and one half (2 1/2) inches DBH at time of planting. Palm trees utilized as street trees shall have eight (8) foot clear wood.



- c. The average spacing requirement for H40 Districts shall be based on the total lineal footage of roadway for the entire project and not based on individual lot widths.
 - d. Street tree species shall be approved by the Town during plan review. Street trees shall visually define the hierarchy of roadways, provide shade along roadways, and provide a visual edge along roadways. Consideration shall be given to the selection of trees, plants and planting site to avoid serious problems such as clogged sewers, cracked sidewalks, and power service interruptions.
 - e. Street trees shall be placed within the swale area or shall be placed on private property where demonstrated to be necessary due to right-of-way obstructions as determined by the Town.
 - f. Street trees planted along roadways and/or sidewalks shall be placed a minimum of four (4) feet off the interior pavement edge.
 - g. Street trees planted within sidewalk or curbed planting area along parallel parking shall have a minimum planting area of six (6) feet by six (6) feet. If the street tree is planted within the sidewalk, root barrier(s) of minimum depth of twelve (12) inches shall be installed per manufacturer's recommendations. These trees shall require adjustable tree grates or groundcover to full coverage inside planting area.
 - h. When trees are planted within the right-of-way, the owners of land adjacent to the areas where street trees are planted must maintain those areas including the trees, plants, irrigation and sod. Where the State, County or Town determines that the planting of trees and other landscape material is not appropriate in the public right-of-way, they may require that said trees and landscape material be placed on private property.
7. The following plant species shall not be planted as required or optional landscaping and, in addition, these species shall be removed from the construction sites with the exception of existing ficus hedges that have been damaged during a strong storm or hurricane. If fifty (50) percent or more viable ficus hedge material is left than the additional missing fifty (50) percent or less can be replaced:

Botanical Name	Common Name
<i>Acacia auriculiformis</i>	Earleaf Acacia
<i>Adenantha pavonina</i>	Red sandalwood
<i>Aeginetia</i> spp. (all)	Aeginetia
<i>Ageratina adenophora</i>	Crofton weed
<i>Albizia julibrissin</i>	Mimosa
<i>Albizia lebbbeck</i>	Woman's Tongue
<i>Alectra</i> spp. (all)	Yerba de hierro
<i>Alternanthera philoxeroides</i>	Alligator weed
<i>Alternanthera sessilis</i>	Sessile joyweed
<i>Araucaria heterophylla</i>	Norfolk Island Pine
<i>Ardisia crenata</i>	Coral ardisia
<i>Ardisia solanacea</i>	Shoebutton Ardisia
<i>Asphodelus fistulosus</i>	Onionweed
<i>Avena sterilis</i>	Animated oat
<i>Azolla pinnata</i>	Asian mosquito fern



Botanical Name	Common Name
<i>Bischofia javanica</i>	Bischofia, Toog
<i>Borreria alata</i>	Broadleaf buttonweed
<i>Brassaia actinophylla</i>	Schefflera
<i>Broussonetia papyrifera</i>	Paper mulberry
<i>Carthamus oxycantha</i>	Wild safflower
<i>Casuarina spp.</i>	Australian Pine
<i>Cestrum diurnum</i>	Day blooming jasmine
<i>Chrysopogon aciculatus</i>	Pilipiliula
<i>Cinnamomum camphora</i>	Camphor tree
<i>Colocasia esculenta</i>	Taro
<i>Colubrina asiatica</i>	Latherleaf
<i>Commelina benghalensis</i>	Benghal dayflower
<i>Crassula helmsii</i>	Swamp stonecrop
<i>Crupina vulgaris</i>	Common crupina
<i>Cupianopsis spp.</i>	Carrotwood
<i>Cuscuta japonica</i>	Japanese dodder
<i>Cuscuta megalocarpa</i>	Bigfruit dodder
<i>Cuscuta potosina</i>	Globe dodder
<i>Cuscutaspp. (except natives)</i>	Exotic dodder vines
<i>Dalbergia sissoo</i>	Indian Rosewood
<i>Digitaria abyssinica</i>	Couch grass
<i>Digitaria velutina</i>	Velvet finger grass
<i>Dioscorea alata</i>	White yam
<i>Dioscorea bulbifera</i>	Air potato
<i>Drymaria arenarioides</i>	Alfombrilla
<i>Eichhornia azurea</i>	Anchored waterhyacinth
<i>Eichhornia spp. (all)</i>	Water hyacinths
<i>Emex australis</i>	Three-cornered jack
<i>Emex spinosa</i>	Devil's thorn
<i>Enterolobium contortisliquum</i>	Ear-pod tree
<i>Eucalyptus spp. (1 or more)</i>	Eucalyptus trees
<i>Euphorbia prunifolia</i>	Painted euphorbia
<i>Fatoua spp. all</i>	Fescue
<i>Ficus altissima</i>	False banyan
<i>Ficus benghalensis</i>	Banyan tree
<i>Ficus benjamina</i>	Weeping fig
<i>Ficus carica</i>	Edible fig
<i>Ficus decora</i>	Rubber tree
<i>Ficus nitida/Ficus microcarpa</i>	Cuban laurel
<i>Ficus religiosa</i>	Bo tree
<i>Ficus spp. (all non-natives)</i>	Ficus
<i>Flacourtia indica</i>	Governor's plum
<i>Flueggea virosa</i>	Flueggea
<i>Foeniculum vulgare</i>	Fennel
<i>Fragaria chiloensis var. Ananassa</i>	Strawberry
<i>Fraxinus uhdei</i>	Shamel ash
<i>Galega officinalis</i>	Goatsrue
<i>Grevillea robusta</i>	Silk Oak
<i>Heracleum mantegazzianum</i>	Giant hogweed



Botanical Name	Common Name
<i>Hibiscus tiliaceus</i>	Mahoe
<i>Hydrilla verticillata</i>	hydrilla
<i>Hygrophila polysperma</i>	Miramar weed
<i>Imperata brasiliensis</i>	Brazilian satintail
<i>Imperata spp.</i>	Cogon grass
<i>Ipomoea aquatica</i>	Chinese waterspinach
<i>Ipomoea fistulosa</i>	Shrub morning glory
<i>Ipomoea triloba</i>	Little bell morning glory
<i>Jacaranda acutifolia</i>	Jacaranda
<i>Jasminum dichotomum</i>	Gold Coast jasmine
<i>Jasminum fluminense</i>	Brazilian jasmine
<i>Lagarosiphon major</i>	Oxygen weed
<i>Lagarosiphonspp. (all)</i>	African elodeas
<i>Lantana camara</i>	Shrub verbena
<i>Leptochloa chinensis</i>	Asian sprangletop
<i>Leucaena leucocephala</i>	Lead Tree, Jumbie Bean
<i>Ligustrum sinense</i>	Chinese privet
<i>Limnocharis flava</i>	Sawa flowering-rush
<i>Limnophila sessiliflora</i>	Ambulia
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lycium ferocissimum</i>	African boxthorn
<i>Lygodium japonicum</i>	Japanese climbing fern
<i>Lygodium microphyllum</i>	Old World climbing fern
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Manilkara zapota</i>	Sapodilla
<i>Melaleuca quinquenervia</i>	Melaleuca or Paperbark
<i>Melastoma malabathricum</i>	Indian rhododendron
<i>Melia azederach</i>	Chinaberry tree
<i>Merremia tuberosa</i>	Woodrose
<i>Mikania cordata</i>	Mile-a-minute vine
<i>Mikania micrantha</i>	Mile-a-minute vine
<i>Mimosa invisa</i>	Giant sensitive plant
<i>Mimosa pigra</i>	Cat-claw mimosa
<i>Monochoria hastata</i>	Monochoria
<i>Monochoria vaginalis</i>	Asian pickerel weed
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Nassella trichotoma</i>	Serrated tussock
<i>Nechamandra alternifolia</i>	Indian elodea
<i>Neyraudia reynaudiana</i>	Burma reed
<i>Orobanchespp. except (O.uniflora)</i>	Broomrape
<i>Oryza longistaminata</i>	Red rice
<i>Oryza punctata</i>	Red rice
<i>Oryza rufipogon</i>	Wild red rice
<i>Ottelia alismoides</i>	Duck-lettuce
<i>Paederia cruddasiana</i>	Sewer vine
<i>Paederia foetida</i>	Skunk vine
<i>Paspalum scrobiculatum</i>	Kodo-millet
<i>Pennisetum clandestinum</i>	Kikuyu grass or Napier grass
<i>Pennisetum macrourum</i>	African feather grass



Botanical Name	Common Name
<i>Pennisetum pedicellatum</i>	Kyasuma grass
<i>Pennisetum polystachyon</i>	Mission grass
<i>Pistia stratiotes</i>	Water-lettuce
<i>Pongamia pinnata</i>	Pongam
<i>Pontederia rotundifolia</i>	Tropical pickerelweed
<i>Prosopis spp. (Except natives)</i>	Mesquite
<i>Pueraria Montana</i>	Kudzu
<i>Rhodomyrtus tomentosa</i>	Downy Rose Myrtle
<i>Ricinus communis</i>	Castor bean
<i>Rottboellia cochinchinensis</i>	Itch grass
<i>Rubus fruticosus</i>	European bramble blackberry
<i>Rubus moluccanus</i>	Asian wild raspberry
<i>Saccharum spontaneum</i>	Wild sugarcane
<i>Sagittaria sagittifolia</i>	Eurasian arrowhead
<i>Salsola vermiculata</i>	Wormleaf salsola
<i>Salvinia spp.</i>	Salvinia
<i>Sapium sebiferum</i>	Chinese tallow tree
<i>Scaevola taccada</i>	Beach naupaka
<i>Schefflera actinophylla</i>	Queen's Island umbrella
<i>Schinus terebinthifolius</i>	Brazilian Pepper, Florida Holly
<i>Setaria pallidifusca</i>	Cattail grass
<i>Solanum tampicense</i>	Wetland nightshade
<i>Solanum torvum</i>	Turkeyberry
<i>Solanum viarum</i>	Tropical soda apple
<i>Sparganium erectum</i>	Exotic bur-reed
<i>Stratiotes aloides</i>	Water-aloe
<i>Striga asiatica</i>	Asiatic witchweed
<i>Striga densiflora</i>	Denseflower witchweed
<i>Striga gesnerioides</i>	Cowpea witchweed
<i>Striga hermonthica</i>	Purple witchweed
<i>Syzygium cumini</i>	Java plum or Jambolan
<i>Syzygium jambos</i>	Rose-apple
<i>Terminalia cattapa</i>	Tropical Almond
<i>Thespesia populnea</i>	Seaside Mahoe
<i>Trapaspp. (all)</i>	Water chestnuts
<i>Tribulua cistoides</i>	Puncture vine
<i>Tridax procumbens</i>	Coat buttons
<i>Urochloa panicoides</i>	Liverseed grass
<i>Vossia cuspidate</i>	Hippo grass
<i>Wedelia trilobata</i>	Wedelia

8. The use of wind tolerant trees and palms are encouraged due to the high risk of hurricanes in South Florida. Every effort should be utilized to reduce the risk of damage and liability by utilizing more wind tolerant landscaping. Also, the use of landscaping that is very poisonous, has a major pest or insect problem, thorny spines, drops messy fruit or has an aggressive root system will be reviewed case by case.
9. The use of plant materials that reinforce the ambience of the Town's distinctive, lush, subtropical character is encouraged.



10. The following plant list species shall not be considered as a required tree or palm. However these species may be utilized as an accent:

Botanical Name	Common Name
<i>Arborvitae spp.</i>	Thuja
<i>Dyopsis lutescens</i>	Areca Palm
<i>Veitchia merrillii</i>	Christmas Palm
<i>Cupressus sempervirens</i>	Italian Cypress
<i>Caryota mitis</i>	Fishtail Palm
<i>Citrus spp.</i>	Citrus
<i>Nerium oleander</i>	Oleander
<i>Ravenala madagascariensis</i>	Travelers Tree
<i>Phoenix roebelenii</i>	Pygmy Date Palm
<i>Sterlizia nicolai</i>	White Bird of Paradise

- All trees and palms must be a minimum of four (4) feet from all underground utility lines. Also, refer to the site lighting and fire hydrant requirements for tree and palms.
- All invasive exotic pest plants shall be removed from the site prior to final inspection.
- All landscape substitutions including shrubs and groundcover shall require Town approval prior to installation.
- No more than thirty (30) percent (of required trees shall be of the same species. The tree diversity mix shall be as follows:

Number of Trees	Number of Species Required
1-4	4
5-25	5
26-50	6
51-75	7
75-100	8
100+	9

90.90.5

Shrubs and Hedges.

- Shrubs shall be a minimum of two (2) feet high, full to base, two (2) feet spreads and planted two (2) feet on center when measured immediately after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized. When shrubs are used as a screen around vehicular open space areas, said shrubs shall be a minimum of two (2) feet in height above the vehicular open space pavement surface that directly abuts the shrubs at time of planting and branch touching branch.
- Required buffer hedges shall be planted two (2) feet high, full to the base, two (2) feet spreads and two (2) feet on center spacing (branch touching branch) and maintained so as to form a continuous, unbroken solid, visual screen, with a maximum height of three (3) feet, to be attained within one (1) year after planting. If the spreads can not be met with the two (2) feet requirement then eighteen (18) inches spreads and eighteen (18) inches on centers can be utilized.
- Shrubs shall be planted so the branches do not touch the building walls or walkways at time of planting.



- 4. Ficus spp., when planted as a hedge, may be used to meet the requirements of dumpster enclosure, mechanical equipment and electrical transformer screening only.
- 90.90.6 *Vines.* Vines shall be full and a minimum of thirty (30) inches in supported height immediately after planting. The method of attachment shall be indicated on the landscape plans.
- 90.90.7 *Groundcover.* Groundcovers shall be full and planted with a minimum of seventy-five (75) percent coverage with one hundred (100) percent coverage occurring within three (3) months of installation. All ground cover shall be planted so not to touch the building walls or walkways at time of planting.
- 90.90.8 *Turf:*
- 1. All turf areas including but not limited to swales, lake maintenance easements, and retention areas shall be sodded using St. Augustine Floratam, Palmetto or Bermuda sod to the water line.
 - 2. Turf shall not be treated as a fill-in material, but rather as a major planned element of the landscape and shall be placed so that it can be irrigated separately from planting beds.
 - 3. Turf areas shall be consolidated and limited to those areas on the site that require pedestrian traffic, provide for recreation use or provide soil erosion control such as on slopes or in swales, or surface water management areas, and where turf is used as a design unifier, or other similar practice use. Turf areas shall be identified and labeled on the landscape plan.
 - 4. The following percentages shall apply to turf areas:
 - a. No more than eighty (80) percent of the landscape area for single-family and duplex dwellings may be in turf grass.
 - b. No more than sixty (60) percent of the landscape area for multifamily dwellings may be in turf grass.
 - c. No more than fifty (50) percent of the landscape area for other development uses may be in turf grass, notwithstanding the use of artificial turf for the purpose of municipal athletic fields.
- 90.90.9 *Planting soil and topsoil:* Topsoil and/or planting soil shall be clear and free of construction debris, weeds and rocks. The topsoil and/or planting soil for all planting areas shall be composed of a minimum of fifty (50) percent muck and fifty (50) percent sand or eighty (80) percent sand and twenty (20) percent muck.
- 90.91 Vegetative Provisions**
- 90.91.1 *Xeriscape.*
- 1. A minimum of twenty (20) percent of the pervious area on single family and duplex dwellings must be in Xeriscape landscape.
 - 2. A minimum of forty (40) percent of the pervious area of multifamily dwellings must be in Xeriscape landscape.
 - 3. A minimum of fifty (50) percent of the pervious area of all other development uses must be in Xeriscape landscape.
- 90.91.2 *Use of site specific plant material:* Plants used in the landscape design shall be to the greatest extent, appropriate to the soil and other environmental conditions in which they are planted.
- 90.91.3 *Invasive exotic plant material:* As a condition of approval, the property owner shall remove all invasive exotic species from the property prior to final.



90.92 Landscape buffer areas between residential and non-residential properties and vehicular use areas

90.92.1 *Applicability:* All proposed development or re-development sites and vehicular use areas serving H30C, H40, H120, SD-B40 or municipal uses shall conform to the minimum landscaping requirements hereinafter provided. Interior parking landscape requirements under or within buildings and parking areas serving H30A and H30B districts are exempt. Additionally, SD-B40 is exempted when the adjacent or contiguous zoning district or use is the same with the exception of vehicular use areas for parking lots, loading, storage or screening of equipment requirements. Expansive concrete or paver areas shall require landscaping to soften and scale the buildings.

90.92.2 *Required Buffer Landscaping Adjacent to Streets and Abutting Properties:* On any proposed, re-developed site, or open lot providing a vehicular use area for H30C, H40, H120, SD-B40 adjacent or contiguous to H40, or municipal plots where such area is abutting street(s) and/or property lines, including dedicated alleys, landscaping shall be provided between such area and such perimeters as follows:

1. A flat ground level or bermed strip of land at least ten (10) feet in depth, located along all the property lines of abutting street(s) and abutting property line(s) shall be landscaped. Such landscaping shall include three (3) trees for each fifty (50) linear feet or fraction thereof. The first tree shall be set back from the intersection of the ingress/egress and the street. The setback area shall be limited to groundcover only. In addition, a hedge, berm, wall or other durable landscape barrier shall not create a sight hazard by being placed along the inside perimeter of such landscape strip and shall be maintained at a maximum height of three (3) feet, if contiguous to a pedestrian walkway, to meet Crime Prevention Through Environmental Design (CPTED) principles. If such durable barriers including walls or fences are of nonliving material, it shall be screened to the height of the durable barrier with a hedge along the street side of such barrier. If a fence or wall is utilized along an abutting property line it must be installed at the property line and screened to the height of the durable barrier with a hedge from the inside. The remainder of the required landscape area shall be landscaped with turf grass, groundcover or other landscape treatment, excluding paving, turf grass not to exceed the maximum amount allowable in the Xeriscape requirements. This buffer may not be counted toward meeting the interior landscape requirements.
2. All property other than the required landscaped strip lying between the streets and abutting property lines shall be landscaped with turf grass or other groundcover; if turf grass is used, it shall not exceed the Xeriscape requirements.
3. All Town approved necessary accessways from the public street through all such landscaping shall be permitted to service the site.
4. Parking Area Interior Landscaping. An area, or a combination of areas, equal to twenty (20) percent of the total vehicular use area exclusive of perimeter landscape buffers required under this subsection shall be devoted to interior landscaping. Any perimeter landscaping provided in excess of that required by this Section shall be counted as part of the interior landscaping requirements, as long as such landscaping is contiguous to the vehicular use area and fulfills the objective of this subsection.



5. All parking areas shall be so arranged so that if there are ten (10) or less contiguous parking stalls along the same parking aisle, the eleventh space shall be a landscaped peninsula a minimum of eleven (11) feet in width with a minimum of ten (10) feet wide landscape area. Also, all rows of parking shall be terminated with eleven (11) feet in width landscape islands with ten (10) feet wide landscape area. In addition, there shall be a minimum requirement of one (1) shade tree and twenty five (25) shrubs planted for every landscaped island. If landscaped divider medians are utilized, they must be a minimum of six (6) feet wide. The minimum dimensions of all proposed landscaped areas not mentioned in this chapter shall be six (6) feet wide. In addition, any Town approved grass parking areas will meet the same requirements as paved parking, and will not be calculated in the pervious space requirements.
6. Landscaped areas, walls, structures and walks shall require protection from vehicular encroachment through appropriate wheel stops or curbs located a minimum of two and a half (2 1/2) feet from any landscaped area. NOTE: The Town encourages the use of Type "D" curbing in parking area that abut landscape areas to provide more green area and lessen the chance of tripping hazards. This can not be utilized to count for buffer or divider median requirements, but can be utilized for pervious and landscaping in the VUA percentages.
7. Where any plot zoned or used for H120 is contiguous to the bulkhead line, a landscape area consisting of the bulkhead line, the erosion control line, and the property lines shall be provided or restored. The proposed landscape material for the required landscape area shall be one hundred (100) percent landscape material used on the barrier island dune system and shall be composed of native plants adapted to the soil and climatic conditions occurring on-site. Additionally, all plant species, amount of plant material, plant spacing and design shall be approved by the Town.

Sec. 90.93

Sight triangles and clearances

When the subject property abuts the intersection of one (1) or more streets or access ways, all landscaping within the triangular area located within twenty five (25) feet of the intersection of the front and side street property lines shall provide unobstructed cross-visibility at a level between thirty (30) inches and eight (8) feet, with the exception of tree trunks that do not create a traffic hazard. The property owner shall be responsible for maintaining all landscaping within the cross-visibility triangle. Landscaping, except required turf and groundcover, shall not be located closer than five (5) feet from the edge of any roadway and three (3) feet from the edge of any alley or pavement. All sight triangles shall be indicated on the landscape plans. NOTE: The Town Traffic Engineer shall have final approval of the clear sight triangles.

Sec. 90.94

Open Space

All open space on any site shall conform to the following requirements:

1. General Landscape Treatment:
 - a. Groundcover, shrubs, and other landscape materials (not including rocks, gravel, pavers, turf blocks, artificial turf, or other items) shall be installed to cover all open space areas not covered by paving or structures, using the required percentages specified in the Plant Material section. No substance including rocks, gravel, pavers, turf blocks, artificial turf or other materials which prevents water percolation shall be used in areas not approved for paving or structures. Proper horticultural planting practices shall comply with Xeriscape requirements.



- b. Along all buildings and structures, mature landscaping at installation shall be installed at one half (1/2) the height of the building or structure at one (1) tree per twenty-five (25) linear feet of each building's façade on all sides for scaling and softening. On buildings over seventy-five (75) feet in height the proposed trees/palms shall be at least thirty-five (35) to thirty-eight (38) feet tall at time of installation. NOTE: If the landscape buffer is contiguous to the building then the landscape buffer requirement will supersede, with the exception of one (1) tree per twenty-five (25) feet being one half (1/2) the height of the building at installation. Additionally, shrubs and groundcovers shall be added to enhance the building. A minimum six (6) feet wide landscape strip shall be provided not including overhands or awnings around all the buildings.
- 2. Shrub and Tree Requirements: Shrubs and trees shall be planted in the open spaces to meet the following requirements:

Percent of Site in Open Space (Amount of Pervious Landscape Planting Area)	Tree and Shrub Requirements
Less than 30%	1 tree and 10 shrubs per 1,000 sf
30 - 39%	1 tree and 8 shrubs per 1,500 sf
40 - 49%	1 tree and 6 shrubs per 2,000 sf
50% or more	1 tree and 6 shrubs per 2,500 sf

- 3. Screening of Equipment: Dumpsters, mechanical equipment, A/C units, electrical transformers, generators and all above ground equipment shall be screened on at least three (3) sides by landscape material that equal to the height of the element at installation. Such screening shall not interfere with normal operation of equipment and shall be maintained at the height of the element or no more than one (1) foot above. In addition, bus shelters which are located within property lines shall be screened with plant material a minimum of two (2) feet in height on three (3) sides, and one (1) canopy tree, fourteen (14) feet in height or three (3) palms.
- 4. Signs: All freestanding sign installations require the installation and establishment of plant material to enhance the structure, at a minimum of one shrub for every two (2) feet of lineal width of the sign structure on each side; and groundcover, a minimum of five (5) feet around the perimeter of the sign base, designed in such a manner so as to not block the message on the sign. Trees or palms shall be required to enhance the sign with blocking it.
- 5. Minimum Landscape Credits and Adjustments: An owner shall receive credit against the minimum landscape code requirements of this Code for preservation, replacement or relocation of existing trees as determined by the Town.

Sec. 90.95

Landscape Buffers

- 1. Where any plot zoned or used for H30C, H40 or H120 is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least ten (10) feet in depth.
- 2. Where any plot zoned or used for H40 or H120 or H30C East of Harding Avenue is contiguous to any plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.



3. Where any plot zoned or used SD-B40 or municipal plot is separated by a street, alley, canal or public open space from a plot zoned or used for H30A or H30B, said plot shall provide a landscape buffer of at least fifteen (15) feet in depth.
4. Where any plot zoned or used for SD-B40 or municipal plot is contiguous to a zoned or used plot of H30A or H30B, said plot shall be provide a landscape buffer of at least twenty (20) feet in depth.
5. Refer to Landscape requirements for landscape buffer and vehicular use areas adjacent to streets and abutting properties section for landscape requirements. The only additional requirement is a one (1) to two and one half (2 1/2) foot tall undulating and meandering landscape berm at three (3) to one (1) slope with layered landscaping along the perimeter adjacent or contiguous to any zoned or used plots of H30A or H30B.
6. In cases where nonresidential property abuts residential property, the Town can require such additional landscaping as is necessary to protect the aesthetics and minimize the impacts of the surrounding area.

Sec. 90.96

Single-family H30A and H30B District landscape requirements

All new H30A and H30B dwellings shall conform to the following minimum landscaping requirements:

1. Landscape Plans: H30A and H30B dwellings may submit landscape plans in the form of a H30A and H30B Landscape Data Table, on a form provided by the Town at time of permit application for review. This form shall include the required minimum landscape requirements, specifications and acceptable plant material choices to be chosen by the applicant. After the applicant has submitted a completed and signed form, a review of the form will be done to verify that all the requirements have been met. Landscape drawings are not required for H30A and H30B dwellings, however, plans are recommended.
2. General Landscape Treatment: Trees, turf grass, groundcover, shrubs and other decorative landscape material shall be used to cover all disturbed ground not covered by building and paving; with Xeriscape to be a minimum of twenty (20) percent of the open space of the site.
3. Shrub and Tree Requirements:
 - a. A minimum of five (5) trees of two (2) different species and twenty five (25) shrubs shall be planted per lot. On corner lots an additional one (1) tree and 10 shrubs shall be required. For all lots larger than eight thousand (8,000) square feet in area, additional shrubs and trees shall be provided at the rate of one (1) tree and ten (10) shrubs per two thousand (2,000) square feet of lot area; however, there shall be no more than fifteen (15) trees and one hundred (100) shrubs required per acre.
 - b. Where possible, a minimum of two (2) trees shall be required in the front of the lot. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence.
 - c. The required shade tree in this subsection shall be a minimum of thirty (30) percent at an overall height of twelve (12) feet to fourteen (14) feet with a minimum canopy spread of five (5) feet and a DBH of two and one half (2 1/2) inches. The small trees can be a maximum of thirty (30) percent at twelve (12) to fourteen (14) feet and minimum canopy spread of six (6) feet and DBH of two and one half (2 1/2) inches. Palm



trees shall have a minimum of six (6) feet of grey wood or clear wood and are counted as three (3) for one (1) (unless from the one (1) for one (1) list) and total palms can not make up more than forty (40) percent of the total trees.

- d. Street trees are required and additional to this subsection. Refer to Plant Material section for street tree requirements.

Sec. 90.97

Preparer's certification of landscape compliance

1. All zone or use districts, except H30A and H30B, shall require a preparer's Certification of Landscape Compliance bearing the original letterhead of the designing firm and licensing number shall be submitted to and approved by the Town of Surfside prior to issuance of any final Certificate of Use, Certificate of Occupancy, or Certificate of Completion. The preparer's Certification of Landscape Compliance shall contain a statement, signed and sealed by the landscape architect of record who prepared the approved plans, that the landscape and irrigation plans have been implemented and that all requirements of this chapter have been met. The original designing firm and the Town prior to the implementation of any changes and substitutions shall approve said changes or substitutions to the approved plan.
2. For a new H30A and H30B residence, the owner or owner's agent may certify in writing that landscape and irrigation have been installed according to approved plan(s). All changes or substitutions must be approved by the Town of Surfside prior to installation.
3. The Town of Surfside shall inspect all projects for compliance prior to issuance of a Certificate of Use, Certificate of Occupancy, or Certificate of Completion.

Sec. 90.98

Tree removal, tree relocation, tree preservation, and tree abuse

Tree removal/relocation permits and native plant community vegetation removal permits are required prior to the removal/relocation of trees, specimen trees, or any vegetation, pursuant to Section 24-60 of the Code of Miami-Dade County. Also, tree abuse including hack racking is prohibited within the Town. Tree protection barriers are required during site development to preserve existing and relocated trees. The Miami-Dade County Department of Environmental Resources Management is responsible for administering and enforcing these provisions.

Sec. 90.99

Landscape manual and materials

The Town of Surfside shall prepare and from time to time revise the landscape manual and any functional landscape materials regarding these requirements. Said manual and materials shall be made available to the public.

APPENDIX

EXHIBIT "A"

town of surfside

design guidelines for
single family residential properties
multifamily and commercial properties

Acknowledgements

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Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's residential neighborhood by providing guidance for the design of new houses, additions and/or remodeling efforts in the existing neighborhood. These guidelines are intended to focus on the characteristics of neighborhood compatibility and to leave individual homeowners the maximum flexibility to build, expand or remodel to meet their own needs and objectives.

All new house construction, additions and remodeling projects must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to neighborhood character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of houses which harmonize with their surroundings and which demonstrate a high standard of quality.

It is important to acknowledge the suburban quality of the existing neighborhood and the community's expressed desire to increase the walkability of the area. Part of this agenda is ensuring that homes maintain an intimate relationship with the street they front. One of the challenges addressed through these guidelines is to accommodate the needs of a car-oriented lifestyle, while limiting the impact of the vehicles on the streetscape experience.

Lastly, the guidelines acknowledge that the existing houses are, in the majority of the instances, too small to accommodate today's lifestyles which encompass greater square footages of livable areas. In order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of homeowners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about residential construction at a number of levels:

- Homeowners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new houses, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions. It should be noted that the Guidelines present illustrated 'suggestions,' which should be interpreted as such and not as intended requirements for permit approval.
- Neighborhood residents should consult the Guidelines to understand the neighborhood compatibility concepts which will apply to new construction.

The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.

Objectives

The objectives of the Guidelines include:

- To encourage harmonious and attractive neighborhood experiences through attention to the exterior architectural quality and appearance;
- To diminish the visual prominence of garages from the street and promote a neighborly experience;
- To encourage a variety of options for building designs;
- To establish the appropriate articulation of buildings within the limitations of the zoning ordinances having regard for mass, volume, architectural detailing, finishes and location within the community;
- To establish design requirements for buildings prominent in community locations;
- To assist architects, designers and builders in the preparation of acceptable building designs;
- To promote the preservation of the existing quality and character of the neighborhood; and
- To provide implementation suggestions for the encouragement of the architectural historic character of potentially contributing or designated historic buildings.

Organization

The guidelines address four (4) general themes:

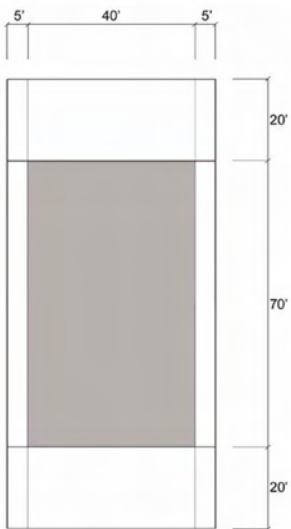
- **Elements of Building Design**
Identifies and addresses design integrity within the individual building.
- **Relationships to Adjacent Properties**
Identifies and addresses the interfaces between new construction and adjacent existing buildings.
- **Neighborhood Patterns**
Identifies building characteristics which are most apt to define a neighborhood's appeal and identity.

Parameters

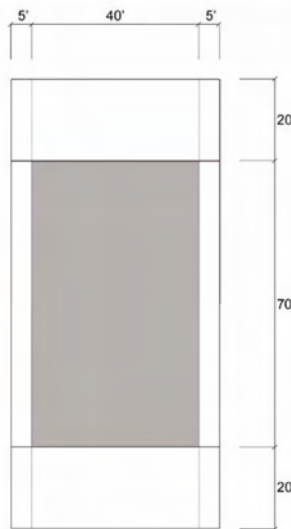
The zoning existing within the town's ordinances, with respect to use designation and maximum heights, are not recommended to change. Within the residential neighborhood, the maximum height is 30 feet and the setbacks are as reflected in the illustrations and the attached chart.

The zoning remains consistent in and applicable in all its provision except one. These design guidelines recommend that the provision limiting construction to two (2) stories be increased to three (3), provided that the building's height does not exceed the established maximum height of thirty (30) feet.

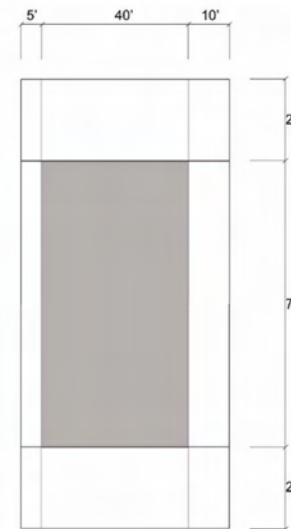
District		Minimum Lot Requirements				Maximum Height		Minimum Yard Requirements			
Zoning	Description	Lot Width	Minimum Area	Lot area per dwelling unit	Max. Lot Coverage	Stories	Feet	Front Yard	Side Yard	Corner	Rear
RS-1	Single Family	50 ft.	2,500 sf.	8,000 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.
RS-2	Single Family	50 ft.	1,800 sf.	5,600 sf.	40%	3	30	20 ft.	5 ft.	10 ft.	20 ft.



Waterfront Lots / RS-1



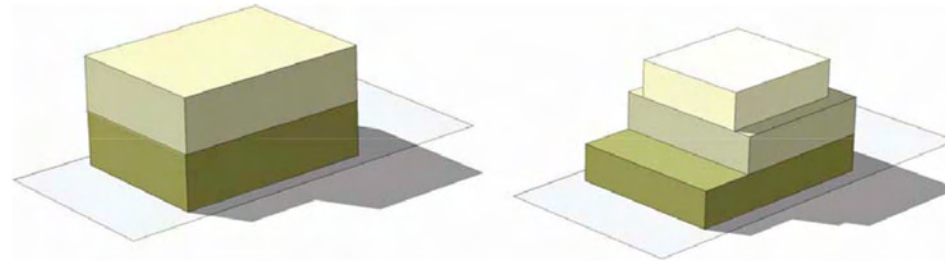
Interior Lots / RS-2



Corner Lots / RS-2

Building Massing

By increasing the number of stories permitted, from two (2) to three (3) and maintaining the height limitation to thirty (30) feet, the property owners are given more flexibility to internally distribute the space in accordance to the parameters described herein. Without the increase of stories, the only provisions of these guidelines that can realistically be implemented are those affecting the building's elevation only. Opportunities to resolve the volumetric distribution and massing of the legally permissible build-able area will have been missed. Because lots are limited in size, increasing the number of allowable stories to increase the floor areas' opportunities allows property owners to implement the parameters without incurring any liabilities upon the Town. Massing distribution should conform to Option A or Option B of the *Mass and Volume Distribution Criteria*.



Maximum Volume Build-out - Allowable Massing versus Proposed

Roof Lines

Because the Town has a variety of architectural roof treatments, the character of the neighborhood does not predicate the use of a specific roof-type. This allows for the homeowner to select a roof style that can accommodate their needs. This will be beneficial for those home owners who choose to maximize the buildability of their lots. Never the less, designs should attempt to provide roof lines and roof designs that, when viewed from the street, are harmonious with abutting properties. All roof slopes on a single building should have the same angle unless different slopes are inherent in the design's style.



Elevation - Maximum Volume Build-Out

Mass and Volume Distribution – Option A

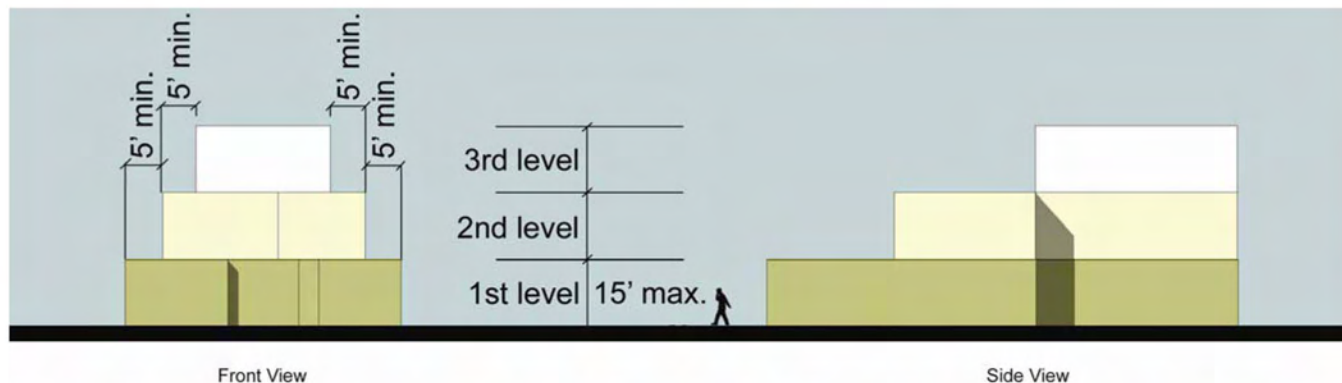
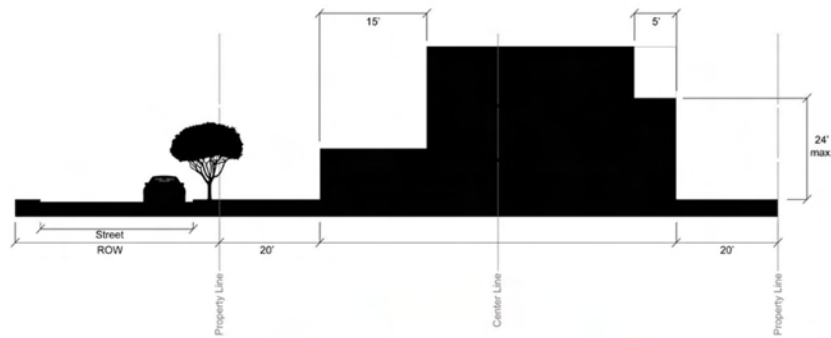
The massing of any new residential building or addition should be sensitive to the profiles of adjacent buildings and should locate second and third stories adequately to reduce the apparent overall scale of the building. This is necessary to ensure an adequate architectural and spatial relationship between new and existing buildings.

The first story should adhere to established zoning setbacks.

The second story should not exceed the ground floor area by 70% and should be setback a minimum of 15 feet from the front façade and a minimum of 5 feet from sides and rear facades.

Third stories or any wall planes exceeding 24 feet in height should provide an additional minimum 5 foot setback from all sides and rear elevations only, but should not be required from the front.

Building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.



Mass and Volume Distribution – Option B

The front façade of a building should be allowed to extend vertically a maximum of two (2) stores in height, provided that at least two (2) of the following criteria are met:

- A) The building should provide an open-air, transitional and habitable architectural element, such as a front porch or wrap-around balcony, for the entirety of the two-story façade (frontage and height). The transitory space should be a minimum of eight (8) feet deep and should be accessible from its corresponding floor elevation.



- B) A maximum of 60% of the facades frontage may be allowed to abut the front setback, with the remaining 40% setback an additional minimum of 12 feet;



- C) The building's façade should in its entirety be set back an additional 12 feet from the setback linear an additional 8 feet from any abutting property's single-story façade, whichever is greater but should not exceed 15 feet. Required transitory architectural elements may be allowed to encroach into the additional setback by 80%.



Transparency and Void Requirements

All elevations should provide for a minimum of 10% wall openings. Wall openings should be defined as either windows, doors or transitional spaces defined by porches, porticoes or colonnades.

Voids should be distributed throughout all facades facing a public Right-of-Way so as to create balance in the facades mass-void proportions and relationships.

Treatment of voids and transparencies should be consistent on all facades of buildings. Glass may be clear or lightly tinted, but should never be darkly tinted or should never have a reflective finish.

New windows should be placed to avoid direct views into existing neighboring windows. Large second story windows overlooking adjacent rear yards should be articulated to minimize views into adjacent rear yards.



Building Forms

Buildings' massing, as provided with the controlled volumetric distribution, should provide for increased light-plane access in-between buildings, even if maximum build-out occurs. This is critical for ensuring that adjacent properties have adequate access to natural light and ventilation. Additionally, properties should provide for greater privacy between buildings on the upper stories.



Natural Light Diagram

Main Entries

Main entries are critical in their established relationships to the street. Increase prominence and visibility from the street, promote a greater architectural relationship between the public and private realms and encourages a sense of neighborhood.

Main entries should be:

- Prominent and oriented to the street;
- Rendered in appropriate scale for the block as well as the individual building;
- Entry feature should not extend above the eave line of the structure; and
- Should not be obstructed from view by fences, landscaping or other visual barriers.



Decorative Features

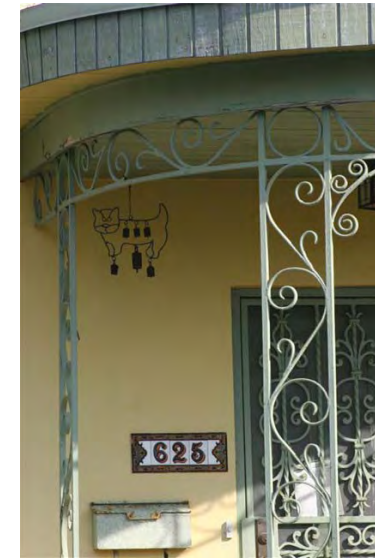
Decorative features such as porch or balcony rails and columns, other columns and capitals, window sills and any other decorative elements should be stylistically consistent throughout the entire building.

Some elements, such as decorative window trims, should be consistent on all parts of the house, while others, such as porch and balcony rails, may apply only to those individual structures, typically those located at or near the front of the house.

For purposes of decorative features, consistency means the same materials, dimensions and design elements. Decorative consistency is perhaps most critical for additions to houses with architectural styles which include decorative features as important elements of the style. Decoration added to a house's addition only, where the original structure previously had none or a stylistically different decoration, should not be allowed.

Overall Architectural Style

The overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof. Particular care should be taken that building elevations and roof elements visible from streets and other public or adjacent spaces are stylistically consistent. Consistency should be determined by evaluating each of the building's elevations' components.



Mailboxes

The Town highly encourages mailboxes to be attached to the house. In the event that this does not apply, the following provisions should be implemented:

- 1) Materials should be true and consistent with the architectural character of the building in both color and texture.
- 2) Landscape planting or approved architectural elements should be used to minimize the visibility of the mailboxes from the public Right-Of-Way.

Decorative Permanent Elements

Decorative permanent elements should include any decorative feature not a part of the architectural facades, including but not limited to bird-baths, statuary, lighting poles and fixtures, columns, fountains, signage and outdoor artwork. Property owners should seek approval prior to installation of these elements.

Decorative permanent elements should be further defined as:

- 1) Any element larger than 36 inches in height or 60 inches in width;
- 2) Any outdoor element that remains installed for a period of time longer than 45 days;
- 3) Any element that requires a footing; or
- 4) Any element that utilizes electricity.

All decorative permanent elements should be in scale with all the façades of the property and should be consistent with the materials, colors and textures predominant of the architecture of the building. Consistency should mean the same materials, dimensions, proportions and design elements.



Garages and Parking Driveways

In general, new garages should be located and sized consistent with the established pattern of the neighborhood.

Attached garages located at the front or side of the house should be no wider than one necessary to accommodate the width of one car, and should never exceed 50% of the overall length of the facade. If a garage is provided to accommodate 2 cars, the garage entrances must have an exterior expression of two separate entrances, each a maximum of 10' wide, and separated by a minimum 18" wide vertical element consistent with the facade.

Attached garages on corner lots should be located to avoid driveway paving at or near the corner.

The width of paved driveways on private property as well as driveway cuts at the curb should be as narrow as possible. Curb cuts should not be two-cars wide, even if they provide direct access to a two-car wide driveway.

Paving accessible for parking in the front setback area should be limited to the width required for access to a garage or other required parking spaces.

Driveways should have a 2% cross slope or appropriate to promote containment of drainage on-site.

Driveway Treatments:

Asphalt driveways should not be permitted;

Driveways should be composed of materials and textures consistent with the overall character of the building;

The Town encourages the use of pavers, concrete may be used provided that it is color- and texture- treated;

Coloring on concrete should be consistent throughout the entire composition; and

Painted concrete should not be permitted.



Balconies, Decks and Lighting

New balconies or decks located more than 5 feet above grade on new or existing houses should be built no closer than 5 feet to adjacent single family side-property lines and no closer than 20 feet to adjacent rear property lines.

Lighting should never be allowed to shine directly onto adjacent residential properties. The view of light sources should be entirely shielded from adjacent properties.

Large, two-story building masses at the sides and rear of adjacent single family yards should be avoided to help preserve privacy and sunlight access for the neighboring property.



Wall Materials and Finishes

Wall material finishes should be appropriate to the style and style era of the house. For example, materials developed after the establishment of a particular architectural style are not appropriate on buildings of that style unless the new material is a high quality and deliberate reproduction of the original material. The same material should be used on all building elevations unless multiple materials are a legitimate expression of the particular style.

False, foam materials should not be allowed.



Roof Materials, Types and Slopes

Roof materials should be appropriate to the style of the house and, except for flat roofs or flat roof portions, should be the same product for the entire roof system. New materials designed for fire resistance are entirely appropriate as long as they replicate the traditional material.

Roof types and slopes should be generally the same over all parts of a single building. Exceptions are roof styles or architectural styles that traditionally involve varying slopes, such as architectural styles that sometimes combine flat and sloped roofs. In addition, hip overall roof designs are often used in combination with very small gable or shed roofs used to highlight a prominent element.

Restricted materials for roofs are pre-determined in the Town's Building Code, which restricts roofing materials to:

1. Clay tile;
2. White concrete tile;
3. Solid color cement tile which color is impregnated with the same color intensity throughout, provided said color is first approved by the planning and zoning board; and
4. Metal.



Windows and Trims

Window styles (double hung, casement, sliding, fixed, etc.) and frame materials (aluminum, wood, steel, etc.) are particularly important expressions of architectural style and should always be consistent among all elevations of a building. Window styles may vary depending on the specific use or size of the window for some architectural styles. Frame materials should never vary on a single building except in some limited cases when the frame material is being upgraded as in the case of renovations.

Window sizes and proportions are also important expressions of architectural style and should be consistent with the architectural style of the house. While window sizes on a single house most often vary by the purpose of the room, several styles, typically include larger uniform window heights all around the building. Several styles also traditionally employ the same window repeated in groups of two, three or four as a fundamental expression of the style.

Window, door and eave trim should be consistent on all elevations of the house, in terms of material, material dimensions and decorative features such as shape, carving, routing, reveals, etc. Replicating the original trim style for additions or remodels of older, traditional styles is particularly important.



Green Design

It is encouraged for all new construction to follow the LEED certification program. Higher LEED certifications (silver, platinum, etc.) are also encouraged.

Rehabilitation of existing structures should achieve the following standards to the greatest feasible extent:

- Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);
- Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
- Reduced coverage by asphalt, concrete, rock and similar substances in driveways and other areas to improve storm-water retention and reduce heat island effects.
- Installation of energy-efficient lighting in buildings, driveways, yards, and other interior and exterior areas;
- Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
- Planting of native shade trees to provide reasonable shade while remaining clear of overhead and underground utilities;
- Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;
- Provision for structural shading (e.g., trellises, awnings and roof overhangs) wherever practical when natural shading cannot be used effectively;
- Inclusion of shaded porch/patio areas; and

Historic Preservation

Initiate inventory of existing building stock by an architectural historian to determine and designate categories of historic preservation:

- Designated Historic Property
- Contributing Historic Property

Develop parameters to address the preservation,

- The restoration of at least 50% of the existing overall structure
- Restoration and preservation of 100% of the street front facades
- Historic Preservation-specific design review processes in accordance to the standards of the Secretary of the Interior.

surfside

residential
design guidelines



Neighborhood Patterns

One of the challenges posed by new construction projects in existing residential neighborhoods is to create relationships between properties and streets that maintain adequate space, light and a sense of openness that complement the existing neighborhood's character.

Because the major objective of these guidelines is to ensure that new homes, additions and remodeling projects are appropriately compatible with the surrounding neighborhood, compliance with the guidelines in this chapter is essential for the preservation of the neighborhood character, and consistency with them will be an important component for those projects which qualify for approval.

Neighborhood Patterns Topics

Overall Neighborhood Pattern Scheme

Priority Lot Properties

Property Designation Diagram

Community Gateway Properties

Community Window Properties

Corner Lot Properties

Waterfront Properties

Upgraded Rear and Side Architecture

View Terminus Properties

Interior Lots

Multifamily

Commercial

Overall Neighborhood Pattern Requirements

The Overall Neighborhood Pattern Requirements should be applicable to all lots, irrespective of designation. These buildings should pay particular attention to the relationship between the street fronting facades, its treatment and articulation, and the street, always enforcing a pedestrian quality and character.

Priority Lot Properties

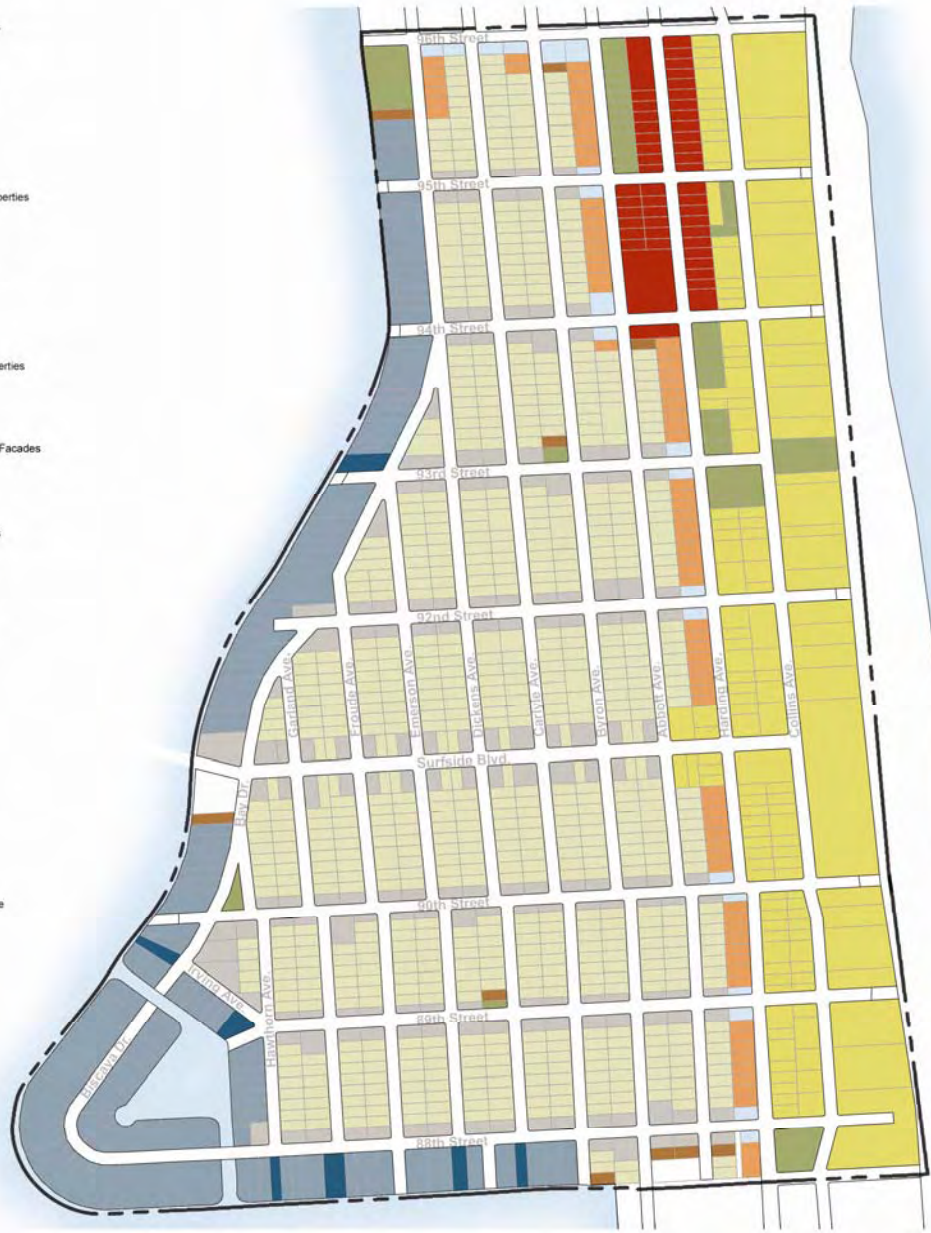
These guidelines identify important properties that aide in the definition of the edges defining the existing residential neighborhood. The strategic approach to identifying each and their importance acknowledges that dwellings in prominent locations, or "Priority Lots," have a higher degree of visibility within the public realm. Special design consideration is required for the publicly exposed elevations of these dwellings.

These priority lots are categorized as follows:

- Community Gateway Properties – properties that are located at important gateways to the neighborhood;
- Community Window Properties – properties that front an important visible edge to the neighborhood;
- Corner Lot Properties – properties that are located at corner lots within the neighborhood;
- Waterfront Properties – properties that have a waterfront exposure;
- Upgraded Rear and Side Facades – properties that have a rear or side façade that is publicly exposed.
- View Terminus – properties which location lines up with city street ends.
- Interior Lot Properties – properties located in the inner lots of the city blocks.

Property Designation Legend

-  View Terminus Properties
-  Waterfront Properties
-  Community Gateway Properties
-  Corner Lot Properties
-  Community Window Properties
-  Upgraded Rear and Side Facades
-  Municipal Use Zoned Lots
-  Interior Lot Properties
-  Multi-Family
-  Commercial
-  Not Applicable
-  Historic Preservation Zone Boundary



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Priority Lots – Community Gateway Properties

Community Gateway Properties are located at the entrances to the community from the external road system, principally Harding Avenue and 96th Street. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby. A high degree of architectural design quality will be expected for all elevations of these properties.

The preferred design is one that acknowledges the importance of the location and acknowledges the corner condition. The main entrance and driveways to garages or carports should face the entry roadway and should not face Harding Avenue or 96th Street. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Community Gateway Property, ensuring that:

- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Wrap-around porches should be provided;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Gateway Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Community Gateway Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



Priority Lots – Community Window Property

Community Window Properties are located along the edges of the community, principally Harding Avenue, Abbott Avenue between 94th Street and 96th Street and on Bay Drive just across the street from the 96th Street Park. These properties play an important role in expressing the image, character and quality of the community to residents, visitors and passersby.

A high degree of architectural design quality will be expected for the street facing elevations of these properties. Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for the aforementioned elevation of a Community Window Property.

The facades should ensure that:

- Wall finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades for at least half the depth of the side elevations, measured from the front facade;
- Roof forms should be enhanced;
- Garages should be recessed from the front entrance feature;
- Distinctive architectural elements should be employed where architecturally appropriate; and
- Special attention has been given to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Community Window Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Community Window Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground

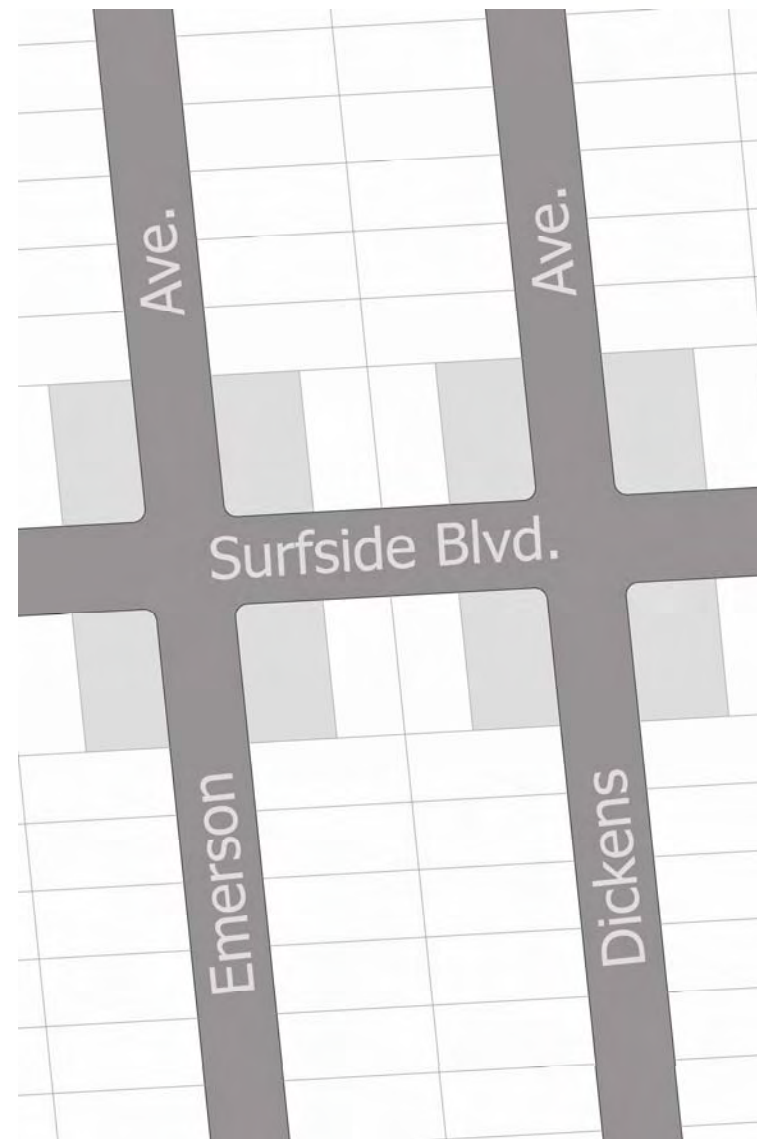
Priority Lots – Corner Lot Properties

Corner Lot Properties are located at the internal street intersections. These properties play an important role in setting the image, character and quality of the street. These properties should address both street frontages in a consistent manner and incorporate ground-level detailing which reinforces the pedestrian scale of the street. The following criteria should apply:

- The main entrance and driveways to garages or carports should face the long side of the lot;

Special attention to the massing, height, articulation, fenestrations, material finishes and detailing is required for all exposed elevations of a Corner Lot Property, ensuring that:

- Wall cladding and finish treatments are consistent on all sides of the building;
- A prominent entrance feature is encouraged;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Distinctive architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.



Corner Lot Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Corner Lot Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



Priority Lots – Waterfront Properties

Waterfront Properties are located at the waterfront edges of the neighborhood with at least one frontage onto Biscayne Bay. These properties play an important role in setting the image, character and quality of the neighborhood as perceived from the water. These properties should address both the street frontage and its water frontage in a consistent manner. The buildings should also incorporate ground-level detailing which reinforces a pedestrian scale at the street elevation.



Waterfront Property Diagram

Priority Lots – Waterfront Properties

The following criteria should apply:

- Wall finish treatments are consistent on all sides of the building;
- There is provided sufficient fenestrations on front and flanking elevations displaying balanced proportions;
- Highly articulated flanking elevations are required to avoid flat, blank, or uninteresting facades;
- Roof forms should be enhanced;
- Rear elevations should be upgraded to include detailing and window treatment consistent with the front and flanking elevations;
- Garages should be recessed with the front entrance feature;
- Front elevations should engage the street and should not be obstructed behind dense landscaping, carports or excessive setbacks.
- Building mass and volume distribution should be distributed so as to not create imposing structures abutting the street or abutting properties;
- Distinctive corner architectural elements should be employed where architecturally appropriate; and
- Special attention to the exterior color package is required to compliment the use of upgraded materials, such as stone, and finishes.





Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Waterfront Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear**	50' Ground
			Corner	10' Ground
			Interior Side*	5' Ground



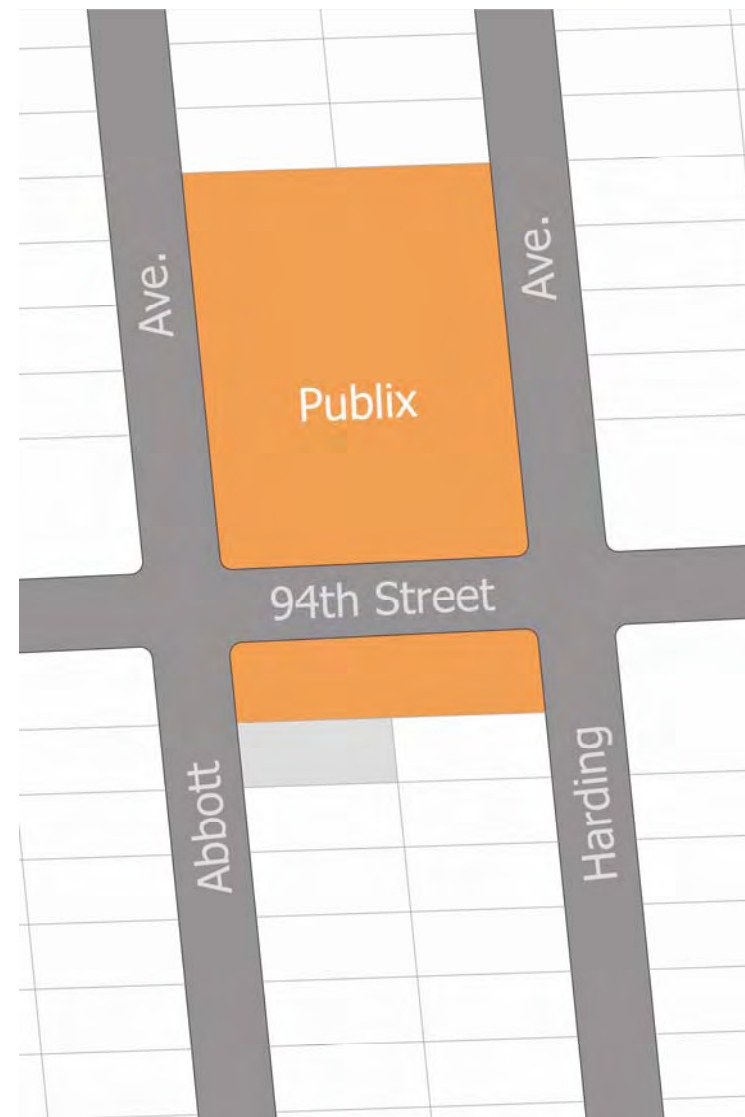
Priority Lots – Upgraded Rear and Side Architecture Properties

Upgraded rear and side architectural elevations are required where these elevations are exposed to public view. This occurs in the following situations:

- Reverse frontage lots which back or flank onto a public road, or
- Lots which back or flank onto highly visible public uses such as open spaces, roads, parks, public walkways, institutional uses and commercial uses.

The exposed side and/or rear elevations of these buildings should have a level of quality and detail consistent with the front elevation. This should include, but not be limited to, features including:

- Enhanced window styles compatible with the architectural style of the overall design;
- Introduction of architectural features to evade blank, uninteresting walls;
- A balance of mass and voids achieved through the proper use of fenestrations; and
- The level of upgrade should be consistent with the level of public exposure.



Upgraded Rear & Side Architecture Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Upgraded Rear and Side Architecture Properties	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Priority Lots – View Terminus Properties

Terminus Lot Properties occur at the top of “T” intersections, where one road terminates at a right angle to the other. These properties play an important role in the streetscape by terminating a long view corridor. Corner lots opposite these properties should frame the view from the street. Because of their prominence, View Terminus Properties should include such enhancement features as:

- Driveways should be located to the outside of a pair of View Terminus Properties to increase landscaping opportunities and reduce the prominence of the garage on the view;
- A greater setback from adjacent dwellings is encouraged where lot depth permits; and
- Architectural treatments which provide visual interest will be required for these parcels.



View Terminus Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
View Terminus Properties	Per Existing Zoning Ordinance	30' Overall, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Priority Lots – Interior Lot Properties

Interior lots will be applicable to the general design criteria applicable as the basis for all lots, including criteria determining:

- Massing and Volumes
- Decorative Features
- Overall Style
- Garage and Parking Driveways
- Relationships to Adjacent Properties
- Roof Materials, Types and Slopes
- Wall Material Finishes
- Windows and Trims



Interior lot Property Diagram



Massing Example



Property Designation	Use Restrictions	Allowable Height	Frontage Setbacks	
Interior Lot Property	Per Existing Zoning Ordinance	30' Overall*, 3 stories	Front	20' Ground
			Rear	20' Ground
			Corner	N/A
			Interior Side*	5' Ground



Introduction

These guidelines are intended to help secure a high quality of environment, regarding livability, visual interest, identity and sense of place, in Surfside's commercial and multifamily districts by providing guidance for the design of new buildings within the existing area. These guidelines are intended to focus on the characteristics of architectural compatibility and to leave individual property-owners the maximum flexibility to build to meet their own needs and objectives.

All new building construction must conform to the development standards of the zoning districts in which they are located. These guidelines presented herein are intended to go beyond the basic requirements of the Zoning Ordinance and, in greater detail, address issues specifically related to character compatibility without changing existing setbacks or height limitations or regulations. In addition, these guidelines are intended to encourage the design and construction of buildings which harmonize with their surroundings and which demonstrate a high standard of quality.

Lastly, in order to establish a sense of historical significance, the Town of Surfside encourages the architecturally authentic restoration of existing structures. Where restoration can become a minimum, these guidelines further encourage the preservation of the existing structure.

Applicability

The Guidelines should apply to all new construction within the Town. These Guidelines are provided for the use of property-owners, builders, contractors, architects, designers, Town Staff and Town decision makers. The Guidelines are expected to be useful for making design decisions about multifamily residential and commercial construction at a number of levels:

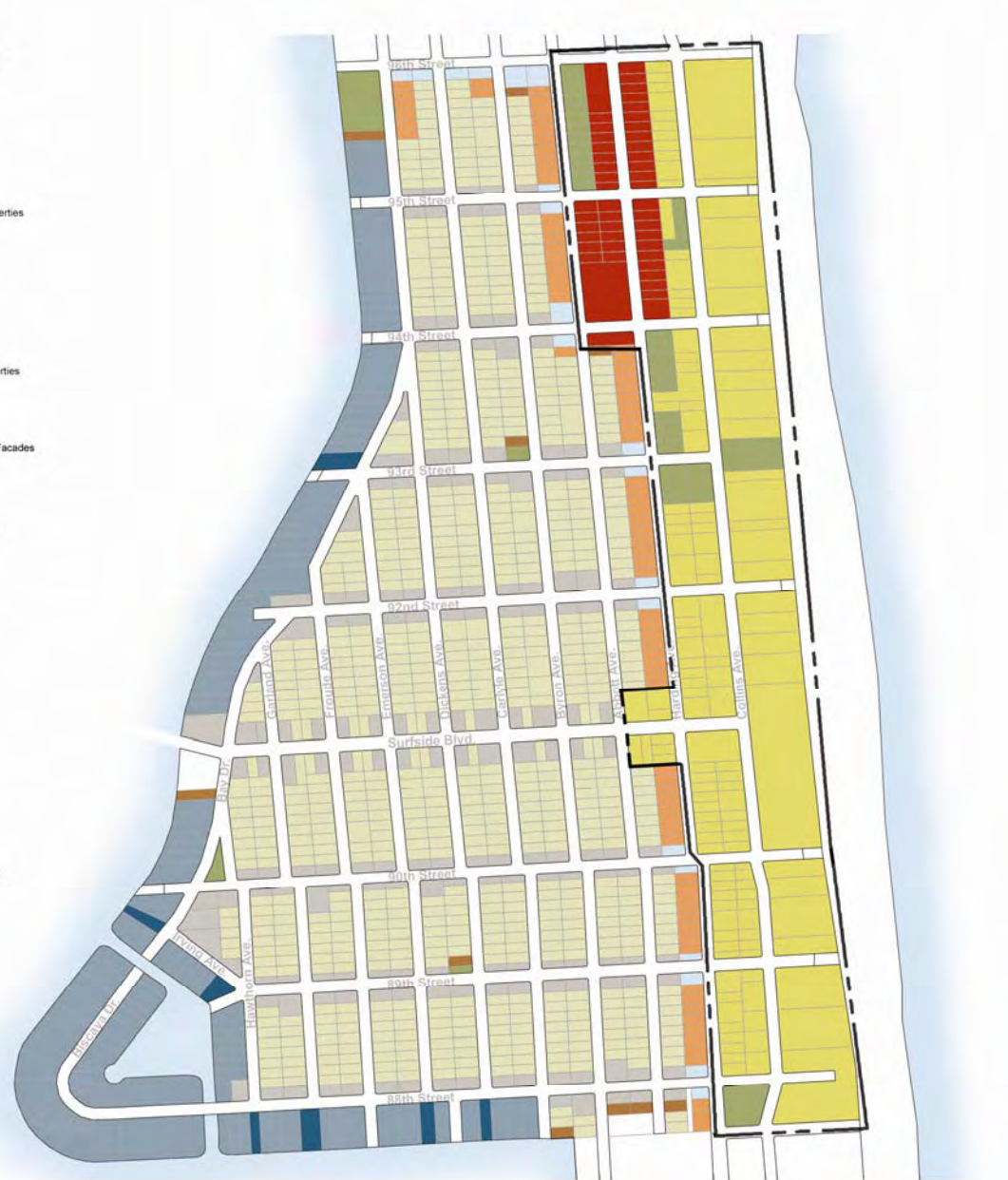
- Property-owners, builders, architects and other designers are encouraged to consult the Guidelines prior to designing new buildings, additions or remodeling projects for ideas and advice.
- The Guidelines will be used by City Staff and decision makers as the criteria for making permit decisions.
- Town residents should consult the Guidelines to understand the compatibility concepts which will apply to new construction.

The transition of this new policy should be as follows:

Any development within the Town approved by the Planning and Zoning Design and Review Board on or before September 11, 2007 is not subject to this policy. In the event of a major revision to an existing draft approval where the developer has an approved agreement, the Town will generally apply this policy.

Any development within the Town approved by the Planning and Zoning Design and Review Board after September 11, 2007 should provide conformity to the Town's Preservation Zone Design Guidelines.

Property Designation Legend



multifamily residential & commercial
 design guidelines

A. STYLE AND BUILDING FORM

New construction should recognize the historic context and should be compatible in massing, scale, proportion and articulation with the context. The predominant characteristics of these architectural articulations include:

Art Deco: Flat roofs, applied decoration, symmetrical or asymmetrical massing, openings are variable in size, shape and proportion

Mediterranean Revival: low pitched roofs, monumental massing, textured stucco, arched openings, varied ornamentation

Mid-Century Modern: horizontal emphasis, flat roofs with extended overhangs, asymmetrical, emphasized material changes, minimal to non-existent ornamentation

Streamline/Moderne: soft flowing masses, round corners, smooth surfaces, asymmetry, flat roofs with parapets, minimal to non-existent ornamentation

The Town highly discourages the literal replication of historic buildings or styles.

B. VOLUMETRICS

1. Building volumes and heights should be articulated to express different building components, features and programmatic elements. Buildings with one continuous height are prohibited.
2. Building lengths should not exceed those limitations as expressed in the zoning code.
3. Additional height articulation beyond those regulated by these requirements is encouraged to provide appropriate scale, rhythm and articulation, provided that no element exceeds the maximum height limitation.

C. ARTICULATION

1. Wall Plane

Building facades should incorporate breaks in the wall plane to provide massing and articulation compatible with the historic context. No single wall plane should exceed 60 feet in length on any exterior façade and should provide a minimum of a 6-foot separation from abutting wall planes.

2. Height Variations

Height variations among architectural elements should have an expression of no less than 5 feet in variation. Buildings with one continuous height should not be allowed.

3. Façade Articulations

All building facades, including alleyways, should be rendered consistently with the overall architectural treatment of the building.

4. Roof Articulations

The town highly encourages the promotion of roof-top gardens on the commercial district, especially for properties with rooftop visible from residential uses or for rooftops overlooking the public Right-of-Way.

D. ENTRANCES, WINDOWS & STOREFRONTS

(Requirements affecting all building façades fronting a public Right-of-Way)

1. Pedestrian entrances should be easily recognizable and oriented towards the street.
2. Divided light window mullions, where provided, should be through the pane (i.e. true divided).
3. Exterior burglar bars, fixed “shutters” or similar security devices are prohibited.
4. Security shutters, if provided, should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with the overall architectural character of the building and its surface materials.
5. Impact resistant glass should be used in all window exposures, except ground level non residential uses.
6. Window and storefront articulations should utilize similar proportions as those within the surrounding context and should be primarily oriented towards the street.

7. Multiple storefronts within a larger building should have consistent material qualities and articulation and should relate to the detailing of the entire building.
8. The bottom edge of windows should be no less than 24 inches above the fronting finished sidewalk elevation
9. For non-residential uses, the first vertical 10 feet of building elevation should be composed of 50% minimum transparency. Required percentages of transparency should be applied to street-facing building facades and walls that provide separation between conditioned interior and un-conditioned exterior space. Requirements should be applied within the first 10 feet of height above the public sidewalk. When possible, the bottom of transparent openings should be no higher than 36 inches above the public sidewalk. Display windows used to satisfy these requirements should have a minimum vertical dimension of 4 feet and should be internally illuminated.
10. Mirrored and heavily tinted glass should not be permitted.
11. The use of exterior shading devices and insulated glass is highly encouraged.

E. AWNINGS, CANOPIES, 'EYEBROWS' AND BALCONIES

1. Balconies should not extend into the frontage setbacks and should not be less than five feet (5') in depth.
2. Awnings and canopies should be incorporated to provide pedestrian protection from the elements as well as reduce overall building heat gain. Encroachments by awnings and non-permanent canopies over the public sidewalk are permitted, but should not be greater than 6' or the width of the sidewalk, whichever is less.
3. Awnings, canopies, "eyebrows" and balconies should have consistent height and depth;
4. Awnings, canopies, "eyebrows" and balconies should remain consistent with architectural details and proportions harmonious with the overall building design and historic context;
5. Awnings, canopies, "eyebrows" and balconies should be consistent on multiple storefronts within a larger building.
6. Awnings should be fabric or metal. Plastic awnings are discouraged.
7. To reduce visual clutter, awnings should be solid colors rather than patterned.
8. Awnings should utilize down lighting. Backlighting is prohibited.

9. Awning valances should generally be straight rather than curved, except for special architectural elements to be compatible with historic building styles.
10. Awnings should be attached to the building façades and should not be supported by vertical elements within the R.O.W.
11. All new and replacement awnings should meet these requirements.

F. SERVICE AREAS AND MECHANICAL EQUIPMENT

1. Service bays, mechanical equipment, garbage and delivery areas, to the greatest extent possible, should be fully enclosed, screened or located within the interior of the building. These areas should not be visible from the Right of Way and should not be visible from properties with adjacent residential or hotel uses.
2. Central air conditioning is required for trash rooms.
3. All exterior equipment should be placed on the roofs and should be screened by an architectural feature. This feature may be allowed to exceed the maximum height limitation.
4. All exterior equipment should be architecturally screened.

G. UNDERGROUND AND ABOVE-GROUND UTILITIES

1. All utilities including telephone, cable, and electrical systems should be installed underground.
2. Large transformers should be placed on the first floor/ground and contained with pad mounts, enclosures or vaults.
3. All exterior facilities, including but not limited to electrical raceways and transformers, permitted above ground should be fully concealed and screened by landscape.

H. PARKING REQUIREMENTS

1. PARKING STRUCTURES

- a. Entrances to parking garages should not be from Collins or Harding Avenue frontages.
- b. Enclosed parking levels should have an exterior architectural treatment designed to be compatible with neighboring buildings and the area's context.
- c. All ground levels of a parking structure facing a public Right-of-Way should be lined with active liner uses or screened.

I. MATERIALS AND FINISHES

1. The predominant surface is stucco with various finish applications. Similar finishes are encouraged, as well as the use of prevalent vernacular materials, such as stone (with native characteristics), metal, glass block and accent wood. Materials vernacular or characteristic to other regions such as flagstone, adobe, etc. are highly discouraged.
2. Materials should be true and genuine, rather than simulated. Multiple storefronts within a larger building should have consistent material qualities and articulation.
3. Within high traffic areas, higher quality materials that are easily maintained (in lieu of painted stucco) should be incorporated at the building's base.
4. Asphalt shingles should be prohibited.
5. Site accessories and materials that have a demonstrated durability and lend themselves to recycling or are produced through recycling means should be preferred. Materials should be made to limit the use of non-renewable resources, retain cultural resources, reduce waste and reduce the impact of manufacturing and transport of materials.
6. Woods that are certified as being from sustainable sources as designated by the Forest Stewardship Council should be utilized.
7. CCA treated woods should be prohibited for finish surfaces.

J. MULTIFAMILY RESIDENTIAL AND HOTEL DESIGN CRITERIA

1. Separating elements, such as fences or walls should not be permitted between multifamily residential uses and fronting streets.
2. Entrances to residential and hotel uses should be kept separate from entrances to other uses in the building.

K. COMMERCIAL USES DESIGN CRITERIA

1. Frontages along Harding Avenue are encouraged to provide a minimum six foot (6') wide continuous non-removable awning.
2. External street-level entrances should be recessed and centered a minimum of 36" from the building frontage.
3. Restaurant uses should have air conditioned trash and garbage facilities.

L. EXTERIOR LIGHTING

1. All exterior lighting should avoid unnecessary, excessively strong or inefficient lighting through selection of appropriate fixtures for each application, use of high-efficiency fixtures and photocell controls to turn lights off during daylight.
2. Energy efficient fixtures and lamps such as Metal Halide cut-off lamps with efficient light distribution and up-to-date energy-efficient light bulbs are encouraged.
3. Solar power (photovoltaic panels) energy supply for outdoor lights should be provided where possible.
4. All lighting should be controlled by photocell controls.
5. Lighting provisions should be designed in a manner that reduces light pollution and are turtle-friendly with a full cut-off for 'dark skies.'

M. ENVIRONMENTAL STANDARDS

1. It is highly encouraged for all new construction to achieve LEED certification. Higher LEED certifications (silver, platinum, etc.) are also highly encouraged.
2. Rehabilitation of existing structures should achieve the following standards:
 - a. Provision of bicycle racks or storage facilities in recreational, office, commercial and multifamily residential areas;
 - b. Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);
 - c. Use of operable windows and ceiling fans to promote natural ventilation when weather permits;
 - d. Installation of energy-efficient appliances and equipment;
 - e. Reduced coverage by asphalt, concrete, rock and similar substances parking lots and other areas to improve storm-water retention and reduce heat island effects.
 - f. Installation of energy-efficient lighting in buildings, parking areas, recreation areas, and other interior and exterior public areas;
 - g. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;
 - h. Planting of native shade trees to provide a minimum of 40% shade for all recreation areas, sidewalks and parking areas in addition to east and west faces of buildings.
 - i. Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;

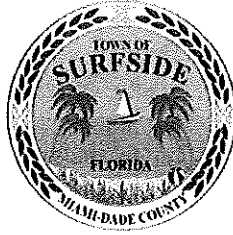
- j. Provision for structural shading (e.g., trellises, awnings and large roof overhangs) wherever practical when natural shading cannot be used effectively; use of the Florida Solar Energy Center Document FSECON-8-86 should be utilized for proper sizing and placement of shade devices.
- k. Inclusion of shaded porch/patio areas in residential units; and
- l. Use of recycled materials.
- m. Use of light-colored materials.
- n. Use of "cool roof" techniques (light colored roof, high reflectance EPDM membrane roof or a planted roof).
- o. Provision of natural daylighting to lower energy use for lighting and to lower cooling loads.
- p. Provision of natural ventilation strategies to induce air movement through the building such as breezeways, interior courtyards, water elements to create a cooling effect, operable windows, high ceilings, and fans.

N. POTABLE WATER STANDARDS

- 1. All development should make adequate provisions for water conservation in accordance with the standards established by the USGBC LEED Rating System.

O. SECURITY SHUTTERS STANDARDS

- 1. Security shutters should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with surface materials.



Town of Surfside Commission Communication

Agenda Item # 4B2

Agenda Date: June 8, 2010

Subject: Proposed Franchise Agreement Renewal / Florida Power & Light (FP&L)

Background: The Town of Surfside has a franchise agreement with FP&L to provide electric service. The current Franchise Agreement was approved by the Town Commission on August 12, 1980. It was for a 30 year period expiring September 2010.

The Town has received a request from FP&L to renew the electric franchise agreement. Town Management has reviewed and negotiated a new franchise agreement with FP&L and the Town Attorney has drafted an Ordinance adopting the new franchise agreement (Attachment A).

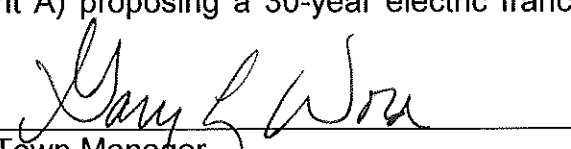
Analysis: Franchise agreements with a municipality results in the development of an operating agreement between FP&L and the Town of Surfside, which gives FP&L the right to operate within the municipality's right-of-ways. In exchange for this right, FP&L agrees to pay a monthly fee of 5.9% of the companies billed revenues, less actual write-offs. The current agreement requires FP&L to pay 6.0% of billed revenues, less actual write-offs but also allowed for a subtraction for any property taxes remitted to the Town. Also, the current agreement allowed FP&L to remit only a 90% payment each month with a 10% "true-up" payment at the end of the fiscal year. The new agreement not only is expected to increase our revenues almost \$20,000 yearly but it will therefore also increase our cash flow by requiring a 100% payment monthly.

Budget Impact: The Town is expected to receive approximately \$410,000 in revenue each year from this electric franchise agreement.

Staff Impact: The franchise agreement would require staff to cooperate with the utility whenever there is an activity disturbing the Town's right-of-way.

Recommendation: It is recommended that the Surfside Town Commission introduce for first reading the attached Ordinance (Attachment A) proposing a 30-year electric franchise agreement with FP&L.


Finance Support Services Dept


Town Manager

Q&As - FPL Franchise

05/27/2010

1. What is the franchise agreement?

It is essentially a contract between the Town and FPL which provides FPL with a non exclusive right to provide electric service within the Town, free of competition from the Town. This agreement also governs FPL's use of the right-of-way as it constructs, maintains and operates its facilities within the Town's boundaries in order to provide reliable electric service to the residents. In exchange, the Town receives monthly franchise payments. This franchise fee is collected by FPL from its customers receiving electric service within the Town.

2. 30 years is a long time, why 30 years?

The existing agreement is 30 years. The 30 year term is typical for franchises in the state and FPL's service territory. The new contract is non exclusive, meaning this contract does not prevent other electric providers from serving in the Town. Meanwhile, FPL makes substantial investments in capital and other resources in this community to maintain and operate our system effectively. Additionally, the proposed franchise agreement does not prohibit customer-installed renewable generation, distributed generation or providers with new technologies from serving in the Town.

FPL has approximately 180 franchises throughout its system. Since 2007, approximately 60 (or one-third) have been renewed – all for 30 year terms.

3. Why is it in the best interest of the Town to sign the 30 year new agreement?

It provides the Town with a steady stream of income over the life of the contract. It can be used for bonding purposes or to finance long term projects.

The new formula improves cash flow. Current contract calls for 90% payment each month for the first 11 months of each franchise year with the 10% added to the final payment. The new contract pays 100% each month.

4. Why is the franchise fee percentage changing from 6% to 5.9%?

The new formula has been simplified and the ad valorem taxes are now excluded from the calculation of the formula, resulting in a higher payment of \$19, 892 to the Town. FPL still pays ad valorem taxes.

5. What happens if the existing franchise expires without a new franchise being approved?

FPL has a statutory duty to serve its customer and would continue to serve the residents in Surfside. However, FPL would no longer collect the franchise fee from those customers and therefore would no longer make the franchise payment to the Town.

6. What is FPL offers another city a better deal?

The proposed franchise agreement includes a "favored nations" clause which protects the Town under certain circumstances in the event FPL offers a higher franchise rate to another municipality in Miami-Dade County.

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE TOWN OF SURFSIDE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida recognizes that the Town of Surfside and its citizens need and desire the continued benefits of electric service; and

WHEREAS, the provision of such service requires substantial investments of capital and other resources in order to construct, maintain and operate facilities essential to the provision of such service in addition to costly administrative functions, and the Town of Surfside does not desire to undertake to provide such services; and

WHEREAS, Florida Power & Light Company (FPL) is a regulated public utility which has the demonstrated ability to supply such services; and

WHEREAS, there is currently in effect a franchise agreement between the Town of Surfside and FPL, the terms of which are set forth in Town of Surfside Ordinance No. 992, passed and adopted August 12, 1980, and FPL's written acceptance thereof dated September 2, 1980 granting to FPL, its successors and assigns, a thirty (30) year electric franchise ("Current Franchise Agreement"); and

WHEREAS, FPL and the Town of Surfside desire to enter into a new agreement (New Franchise Agreement) providing for the payment of fees to the Town of Surfside in exchange for the nonexclusive right and privilege of supplying electricity and other related services within the Town of Surfside free of competition from the Town of Surfside, pursuant to certain terms and conditions, and;

WHEREAS, the Town Commission of the Town of Surfside deems it to be in the best interest of the Town of Surfside and its citizens to enter into the New Franchise Agreement prior to expiration of the Current Franchise Agreement;

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

Section 1. There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called the "Grantee"), for the period of 30 years from the effective date hereof, the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the Town of Surfside, Florida, and its successors (hereinafter called the "Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (hereinafter called "facilities"), for the purpose of supplying electricity and other services to the Grantor and its successors, the inhabitants thereof, and persons beyond the limits thereof.

Section 2. The facilities of the Grantee shall be installed, located or relocated so as to not unreasonably interfere with traffic over the public rights-of-way or with reasonable egress from and ingress to abutting property. To avoid conflicts with traffic, the location or relocation of all facilities shall be made under the supervision and with the approval of Grantor's representatives in accordance with the Grantor's reasonable rules and regulations with reference to the placing and

maintaining in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations (a) shall not prohibit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its customers, and (c) shall not require the relocation of any of the Grantee's facilities installed before or after the effective date hereof in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed facilities to unreasonably interfere with motor vehicular traffic. Such rules and regulations shall recognize that above-grade facilities of the Grantee installed after the effective date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible. When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its facilities, the portion of the public right-of-way so excavated shall within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. The Grantor shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Grantee's facilities required under subsection (c) of this Section, except, however, the Grantee shall be entitled to reimbursement of its costs from others and as may be provided by law.

Section 3. The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its facilities hereunder, and the acceptance of this ordinance shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence, default or misconduct of the Grantee in the construction, operation or maintenance of its facilities hereunder.

Section 4. All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

Section 5(a). As a consideration for this franchise, the Grantee shall pay to the Grantor, commencing 90 days after the effective date hereof, and each month thereafter for the remainder of the term of this franchise, an amount which added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the Grantor against the Grantee's property, business or operations and those of its subsidiaries during the Grantee's monthly billing period ending 60 days prior to each such payment will equal 5.9 percent of the Grantee's billed revenues, less actual write-offs, from the sale of electrical energy to residential, commercial and industrial customers (as such customers are defined by FPL's tariff) within the incorporated areas of the Grantor for the monthly billing period ending 60 days prior to each such payment, and in no event shall payment for the rights and privileges granted herein exceed 5.9 percent of such revenues for any monthly billing period of the Grantee. The Grantor shall continue to receive franchise payments under the Current Franchise Agreement during the period between the effective date of this New Franchise Agreement and the first payment hereunder.

The Grantor understands and agrees that such revenues as described in the preceding paragraph are limited, as in the existing franchise Ordinance No. 992, to the precise revenues described therein, and that such revenues do not include, by way of example and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of electric transit vehicles); (d) revenues from Sales for Resale

(service to other utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges; (g) Field Collection Charges; (h) other service charges.

Section 5(b). If during the term of this franchise the Grantee enters into a franchise agreement with any other municipality located in Miami-Dade County, Florida, where the number of Grantee's active electrical customers is equal to or less than 15,000, the terms of which provide for the payment of franchise fees by the Grantee at a rate greater than 5.9% of the Grantee's residential, commercial and industrial revenues (as such customers are defined by FPL's tariff), under the same terms and conditions as specified in Section 5(a) hereof, the Grantee, upon written request of the Grantor, shall negotiate and enter into a new franchise agreement with the Grantor in which the percentage to be used in calculating monthly payments under Section 5(a) hereof shall be no greater than that percentage which the Grantee has agreed to use as a basis for the calculation of payments to the other Miami-Dade County municipality, provided, however, that such new franchise agreement shall include additional benefits to the Grantee, in addition to all benefits provided herein, at least equal to those provided by its franchise agreement with the other Miami-Dade County municipality. Subject to all limitations, terms and conditions specified in the preceding sentence, the Grantor shall have the sole discretion to determine the percentage to be used in calculating monthly payments, and the Grantee shall have the sole discretion to determine those benefits to which it would be entitled, under any such new franchise agreement.

Section 6 (a). As a further consideration, during the term of this franchise or any extension thereof, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee, (b) not to participate

in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies), and (c) not to seek to have the Grantee transmit and/or distribute electric capacity and/or electric energy generated by or on behalf of the Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act.

Section 6 (b). Grantor may, if permitted by law, (i) generate electric capacity and/or energy at any facility owned by the Grantor for storage or utilization at that facility or other facilities, operations or equipment, provided that delivery of that electric capacity or energy does not extend beyond Grantee's Point of Service for those facilities, and (ii) use renewable energy sources to generate electric capacity and/or energy for use in demonstration projects or at Grantor's facilities; and (iii) sell electric capacity and/or energy to Grantee in compliance with applicable rules and regulations controlling such transactions.

Section 6 (c). Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have 90 days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those

offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person. If the Grantee does not agree to rates, terms and conditions which equal or better the other person's offer, all of the terms and conditions of this franchise shall remain in effect.

Section 7. If the Grantor grants a right, privilege or franchise to any other person or otherwise enables any other such person to construct, operate or maintain electric light and power facilities within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee determines are more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this franchise if such terms and conditions are not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 60 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable. The Grantor shall then have 60 days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee determines that such terms or conditions are not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall be effective on the date of delivery of such notice.

Section 8. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them) any person is permitted to provide electric service within the incorporated areas of the Grantor to a customer then being served by the Grantee,

or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its obligations hereunder, or otherwise resulting from this franchise in respect to rates and service, place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this franchise if such competitive disadvantage is not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of such action which resulted in the competitive disadvantage. The Grantor shall then have 90 days in which to correct or otherwise remedy the competitive disadvantage. If such competitive disadvantage is not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.

Section 9. Failure on the part of the Grantee to comply in any substantial respect with any of the provisions of this franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction that the Grantee has failed to comply in a substantial respect with any of the provisions of this franchise, and the Grantee shall have six months after such final determination to make good the default before a forfeiture shall result with the right of the Grantor at its discretion to grant such additional time to the Grantee for compliance as necessities in the case require.

Section 10. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this ordinance, including but not limited to: (a) denying the Grantee use of public

rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this franchise and entitle the Grantee to withhold all or part of the payments provided for in Section 5 hereof until such time as a use permit is issued or a court of competent jurisdiction has reached a final determination in the matter. The Grantor recognizes and agrees that nothing in this franchise agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right.

Section 11. The Grantor may, upon reasonable notice and within 90 days after each anniversary date of this franchise, at the Grantor's expense, examine the records of the Grantee relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at the Grantee's office where such records are maintained. Records not prepared by the Grantee in the ordinary course of business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Information identifying the Grantee's customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit.

Grantor waives, settles and bars all claims relating in any way to the amounts paid by the Grantee under the Current Franchise Agreement embodied in Ordinance No. 992.

Section 12. The provisions of this ordinance are interdependent upon one another, and if any of the provisions of this ordinance are found or adjudged to be invalid, illegal, void or of no effect, the entire ordinance shall be null and void and of no force or effect.

Section 13. Grantor acknowledges it is fully informed concerning the existing franchise granted by Miami-Dade County, Florida, to the Grantee herein, and accepted by the Grantee as set out in Ordinance No. 60-16 adopted on May 3, 1960, and subsequently renewed and accepted by the Grantee as set out in Ordinance No. 89-81 adopted on September 5, 1989 by the Board of County Commissioners of Miami-Dade County, Florida. Grantor agrees to indemnify and hold Grantee harmless against any and all liability, loss, cost, damage and expense incurred by Grantee in respect to any claim asserted by Miami-Dade County against Grantee arising out of the franchise set out in the above referenced ordinances for the recovery of any sums of money paid by Grantee to Grantor under the terms of this New Franchise Agreement. Grantee acknowledges and Grantor hereby relies on then Dade County Resolution No. R-709-78 adopted on June 20, 1978 in the granting of this franchise.

Section 14. As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.

Section 15. Ordinance No. 992, passed and adopted August 12, 1980 and all other ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

Section 16. As a condition precedent to the taking effect of this ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of adoption of this

ordinance. The effective date of this ordinance shall be the date upon which the Grantee files such acceptance.

Section 17. It is the intention of the Town Commissioners, and it is hereby ordained that the provisions of this ordinance, shall become and be made a part of the Code of the Town of Surfside, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

PASSED AND ADOPTED on first reading this 8th day of June, 2010.

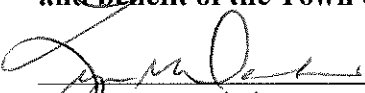
PASSED AND ADOPTED on second reading this ____ day of _____, 2010.

DANIEL DIETCH, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**



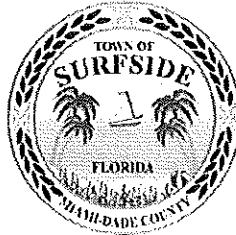
Lynn M. Dannheisser
Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Dietch	yes	no
Vice Mayor Graubart	yes	no
Commissioner Karukin	yes	no
Commissioner Kopelman	yes	no
Commissioner Olchyck	yes	no



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 861-4863

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney

cc: Gary Word, Town Manager

DATE: June 13, 2010

SUBJECT: Parking Trust ordinance

The Town Commission has expressed a desire to foster the creation of a pedestrian-friendly mixed-use downtown environment within the Town of Surfside ("Town"), by supporting the attraction of businesses and general revitalization of properties in the traditional downtown area within the Town's SD-B40 Zoning District. One of the impediments to such an effort in Surfside (and in any traditional downtown business area within a geographically constrained beachfront community) is the lack of parking. The Town has not been able to enforce (and has not enforced) parking requirements to provide new spaces on site as a matter of custom and practice precisely because there is little available land to devote to this purpose. Instead, it has attempted to provide alternatives around the Town including shared parking, and joint use and off site facilities, among other things.

In continuing to work through this problem, Staff would suggest that the centralized location and proximity of the SD-B40 Zoning District to the Town's beachfront district and residential neighborhoods makes the area well-suited to the creation and imposition of another parking mitigation option per the Town Comprehensive Plan, and specifically, to allow new businesses and development projects to meet off-street parking requirements through the payment of fees into a Town Parking Trust Fund, which shall then be utilized to finance one or more capital projects that support the creation and provision of public parking. Such proposals will be described in more detail by the Town Manager.

This Ordinance proposes to amend Section 90-77 "Off-street parking requirements" of its Code of Ordinances to provide an exception from the requirements for provision of off-

street parking for changes of occupancy within the SD-B40 Zoning District, and to allow new development and renovations within the district to comply with the off-street parking requirements through payment of a parking fee into the Town's Downtown Parking Trust Fund, in addition to other methods of compliance.

This entails the ability of any new business or development to pay into the Downtown Parking Trust Fund an established fee per parking space determined by the Town Manager, approved by resolution of the Town Commission, as may be amended from time to time. The required parking fees are to be paid prior to the issuance of a building permit. The monies collected may be used in the aggregate to acquire land for parking purposes; and construct, maintain, operate, lease, manage, purchase, or otherwise provide off-street parking facilities for public use among other parking related efforts such as a possible parking shuttle. No funds will be expended without a recommendation by the Town Manager to the Town Commission and approval by the Town Commission.

RECOMMENDATION: It is recommended by Staff that you adopt this Ordinance.

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING," ARTICLE VII "OFF-STREET PARKING AND LOADING," DIVISION 1 "OFF-STREET PARKING," SECTION 90-77 "OFF-STREET PARKING REQUIREMENTS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES REGARDING OFF-STREET PARKING COMPLIANCE FOR THE SD-B40 ZONING DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida ("Town Commission") desires to foster the creation of a pedestrian-friendly mixed-use downtown environment within the Town of Surfside ("Town"), by supporting the redevelopment and revitalization of properties in the traditional downtown area within the Town's SD-B40 Zoning District; and

WHEREAS, following the identification of a significant need for public parking within the downtown business district during the Town's 2006 Charrette process, the Town adopted amendments to the Future Land Use Element of the Town of Surfside Comprehensive Plan which support the use of a Parking Trust Fund as a method for funding the construction of public parking garages and other facilities and programs to provide needed parking within the Town's business district; and

WHEREAS, the Town Commission finds that, as a traditional downtown business area within a geographically constrained beachfront community, vehicle parking is substantially limited within the SD-B40 Zoning District; and

WHEREAS, the parking limitations within the SD-B40 Zoning District hinder the ability of businesses and other nonresidential uses to develop, improve and redevelop properties; and

WHEREAS, the Town desires to encourage businesses to gravitate to the downtown business district and/or create opportunity for redevelopment within the SD-B40 Zoning District and for the past several years has not been able to enforce parking requirements to provide new spaces as a matter of custom and practice because there is little available land to devote to this purpose and instead has attempted to provide alternatives around the Town including shared parking, joint use and off site facilities; and

WHEREAS, the centralized location and proximity of the SD-B40 Zoning District to the Town's beachfront district and residential neighborhoods makes the area well-suited to the creation and imposition of another parking mitigation option per the Town Comprehensive Plan, and specifically, allowing new businesses and development projects to meet off-street parking requirements through the payment of fees into a Town Parking Trust Fund, which shall then be utilized to finance one or more capital projects that support the creation and provision of public parking; and

WHEREAS, the Town proposes to amend Section 90-77 "Off-street parking requirements" of its Code of Ordinances to provide an exception from the requirements for provision of off-street parking for changes of occupancy within the SD-B40 Zoning District, and to allow new development and renovations within the district to comply with the off-street parking requirements through payment of a parking fee into the Town's Downtown Parking Trust Fund, in addition to other methods of compliance; and

Ordinance No. _____

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the district regulations on June 24, 2010 with due public notice and input; and

WHEREAS, the Town Commission shall have conducted a duly noticed public hearing on these regulations as required by law on July 13, 2010, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission finds that this Ordinance is consistent with the Town's Comprehensive Plan and furthers the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-77. 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; or structurally altered so as to increase its total commercial floor area, including provision of outdoor seating; or when any building or structure is hereafter converted to any of the uses listed in subsection 90-77(b) (c) off-street parking spaces shall be provided in accordance with the requirements of subsection 90-77(b) (c) or as required in subsequent sections of this article. The requirement for an increase in the number of required parking spaces shall be provided on the basis of the enlargement or change of use.

(b) Off-street parking compliance for properties and uses located in SD-B40 Zoning District. The following shall apply to properties and uses within the SD-B40 Zoning District:

Ordinance No. _____

(1) *Applicability.* Compliance with the off-street parking requirements shall be required for all projects and developments consisting of new construction, or renovations with an aggregate job value which equals or exceeds [REDACTED] % of the current assessed value of the property, as contained in the Miami-Dade County Property Appraiser's Office tax rolls. All projects and development within a 365-day period shall be aggregated to determine if this threshold is met. Normal repairs and maintenance shall not trigger compliance. Changes of use or changes of business in an existing building that are not accompanied by construction or renovations meeting this threshold shall be exempt from the off-street parking requirements of Section 90-77. [NOTE: insert an amount designed to exclude minor investment, and capture the kind of investment you typically see to establish a new business - don't want to discourage normal repair and maintenance.]

(2) *Options to satisfy parking requirements.* Satisfaction of the off-street parking requirements of this subsection (b) may be achieved through compliance with any combination of the following options:

- (i) Subsection 90-77(c) On site provision of parking spaces;
- (ii) Subsection 90-77(d) Tandem parking;
- (iii) Section 90-80 "Joint use and off-site facilities;"
- (iv) Section 90-81 "Shared parking;" or
- (v) Section 90-77(b)(3) Payment of parking trust fee.

(3) *Parking trust fee.* The off-street parking requirements may be complied with by paying into the Downtown Parking Trust Fund the sum of money that is the product of the number of parking spaces required but not provided, multiplied times the amount of the established fee per parking space. The parking fee amount shall be calculated on a "per parking space" standard, based upon a portion of the cost of the land, combined with the cost of design and construction, for a single structured off-street parking space. The established fee per parking space shall be determined by the Town Manager and approved by resolution of the Town Commission, as may be amended from time to time. All required parking fees shall be paid prior to the issuance of a building permit.

(4) *Parking trust fund.* There is hereby established a trust fund to be entitled the "Town of Surfside Downtown Parking Trust Fund," to be maintained and administered by the Town Manager. Parking fees collected pursuant to subsection (b)(3) shall and any other monies may be deposited into this fund. The fund shall be used to facilitate the provision of public off-street parking and infrastructure improvements related to parking including, but not limited to, the following activities:

- a. *Acquire fee simple or other interests in land, and other real property for parking purposes;*

- b. Construct, maintain, operate, lease, manage, purchase, or otherwise provide off-street parking facilities for public use including all labor and materials, cost of interest and financing etc;
- c. Provide public information to enhance parking utilization including publicity campaigns, graphics and signage, and other informational devices;
- d. Coordinate plans for parking facility improvements and expansion with public transportation plans and operations in the vicinity;
- e. Provide accessibility to off-street parking facilities by suitable means such as public shuttle, tram or trolley service and related physical improvements such as bus shelters and right-of-way modifications; and
- f. Perform such other related activities as may be necessary to carry out the intent of this subsection.

The success and financial feasibility of providing any such shuttle, tram, bus, or trolley service, as provided in subsection (b)(4)e., shall be subject to annual evaluation by the Town Commission. Funds deposited in the Downtown Parking Trust Fund shall be made available to the Town Commission for the purposes set forth in this subsection, after review and recommendation by the Town Manager to the Town Commission and approval by the Town Commission.

~~(b)~~(c) *Required parking table.* 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:

TABLE INSET:

Type of Residential Unit/Type of Use		Minimum Space Requirements
Single-family or Two-family		2 spaces
Multi-family--Efficiency and 1-bedroom		1.5 spaces
Multi-family--2-bedroom and 3-bedroom		2.0 spaces
Multi-family--4-bedrooms or more		2.25 spaces
Hotel		1 space for each room
Suite-Hotels		1.25 space for each room
Hotel and Suite-	Meeting/banquet	100% of code required parking for place of

Hotel ancillary uses	space	public assembly for square footage in excess of 20 square feet of gross floor area per hotel room
	Restaurants	1 space per 100 square feet of gross floor area.
Place of Public Assembly: Where seats and/or benches are provided		1 space for every 4 seats, or 1 space for every 6 linear feet or part thereof of bench
Place of Public Assembly: Where fixed seats are not provided		1 space for each 50 square feet of non-administrative and congregation space
Grocery, fruit or meat market		1 space each 250 gross floor area
Retail store or Personal service establishment		1 space each 300 gross floor area
Office or Professional services use, except Financial institutions		1 space each 400 gross floor area
Medical or Dental uses		1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises		1 space for every 4 seats
Financial institutions		1 space each 300 gross floor area
Educational services		1 space per classroom, plus 1 per 250 gross floor area

* * *

(e)(d) Tandem parking.

(1) For residential 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.

(2) For hotel and suite-hotel uses, tandem parking spaces within a parking structure may be permitted for 100 percent of the required off street parking other than handicapped spaces, provided, however, all uses having tandem spaces must provide 24-hour valet parking service and all applications for use of tandem parking must be approved by the town commission and the applicant must enter into an agreement, recorded in the public records at the expense of the owner, which shall run with the land and shall bind the heirs, successors, and assigns of said owner, which requires all developments having any tandem parking spaces to provide 24-hour valet parking service.

Ordinance No. _____

* * *

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this ____ day of _____, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

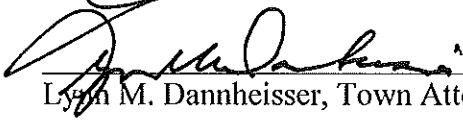
Daniel Dietch, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

Ordinance No. _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

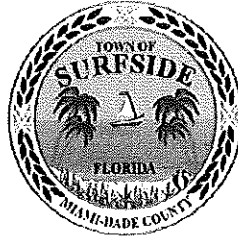
On First Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Dietch	yes	_____	no	_____
Vice Mayor Graubart	yes	_____	no	_____
Commissioner Karukin	yes	_____	no	_____
Commissioner Kopelman	yes	_____	no	_____
Commissioner Olchyck	yes	_____	no	_____

Ordinance No. _____



TOWN OF SURFSIDE
Office of the Town Attorney


MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney 

cc: Gary Word, Town Manager

DATE: May 11, 2010

SUBJECT: APPOINTMENT OF MEMBERS OF THE PLANNING AND ZONING BOARD

Section 90-15 (d) of the Zoning Code provides as follows:

"d) Board member term(s): The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the board as provided in paragraph (e) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed. "

RECOMMENDATION: It is recommended the Commission now appoint the members of the P & Z Board in accordance with the Code.

RESOLUTION NO. 2010-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPOINTING MEMBERS OF THE TOWN PLANNING AND ZONING BOARD; PROVIDING FOR IMPLEMENTATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 90-52 (d) of the Town of Surfside Code of Ordinances provides in pertinent part:

“(d) *Board member term(s)*: The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first...” and

WHEREAS, Section 90. 15 (b) sets forth the requirements for the members of the Board as follows:

(b) *Minimum board member qualifications*: All board members must have been a town resident for a minimum period of one year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six months. The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design. To the extent that no licensed architect (whether for service on the design review board only as more specifically described in section 90-18 hereinbelow) who is also a town resident can be identified and is willing to serve at the time of appointment to either board, then the commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the board of commissioners; and

WHEREAS, the newly elected Town Commission desires to appoint and approve the members of the Planning and Zoning Board who meet the foregoing criteria;

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

Section 1. Recitals Adopted. That the foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Nominations. The following citizens are nominated to the Planning & Zoning Board:

1. Scarlet Tenen (Michael Karukin) adopted 5-11-10
2. Armando Castellanos (Marta Olchyk) adopted 5-11-10
3. Sheldon Lisbon (Edward Kopelman) adopted 5-11-10
4. Peter Glynn (Daniel Dietch) adopted 5-11-10
5. _____ (Joe Graubart)

Section 3. Approval of Appointment. That the Town Council, by majority vote, approves the foregoing nominations to serve on the Board in accordance with the provisions of Section 90-52.

Section 4. Implementation. That the Mayor and the Town Manager are authorized to take any and all action which is necessary to implement this Resolution.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED on this ____ day of _____ 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

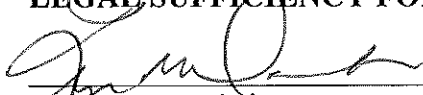
Commissioner Michael Karukin	_____
Commissioner Edward Kopelman	_____
Commissioner Marta Olchyk	_____
Vice Mayor Joseph Graubart	_____
Mayor Daniel Dietch	_____

Daniel Dietch, Mayor

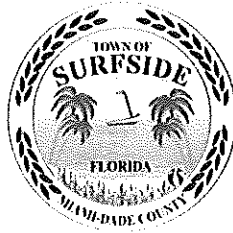
Attest:

Debra E. Eastman, MMC
Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser
Town Attorney



Town of Surfside Commission Communication

Agenda Item # 5B

Agenda Date: June 8, 2010

Subject: SURFSIDE SOLAR LIGHTS AND HANDICAP RAMPS/PADS CONSTRUCTION ON HARDING AVENUE

Background:

As part of the American Recovery and Reinvestment Act (ARRA), the Town of Surfside will participate in the construction of several bus stops handicap ramps, pads, and solar lights to be installed along Harding Avenue within the Florida Department of Transportation (FDOT) corridor. The intent of the project is to provide accessibility throughout the corridor which will meet the requirements of the Americans with Disabilities Act (ADA). Therefore, certain areas along this corridor which do not currently meet the ADA requirements as they exist today will be constructed to meet these requirements. Through the competitive bidding process the Town has identified a contractor, Horsepower Electric, which meets all the ARRA qualifications. Horsepower Electric was the apparent low bidder with a cost to the Town of \$139,027.

Analysis:


The proposed project will not cost the Town any monies as the ARRA funding will completely cover the construction cost. The funding through the ARRA has already been provided to FDOT therefore there will be no delay in the Town's reimbursement of the funds.

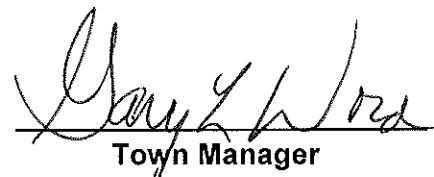
Budget Impact:

Funds to cover the total projected cost of \$139,027 for this construction will come from Capital Projects – Infrastructure account (301-4400-541-6310) and will be incorporated in the Town's Resolution to address the midyear budget adjustment. Engineering costs, estimated to be roughly \$10,000, will be funded from reserves. All construction costs will be reimbursed by FDOT as part of the ARRA.

Staff Impact: None.

Recommendation: It is recommended that the Surfside Town Commission approve the attached resolution (Exhibit A) authorizing the Town of Surfside to enter into the attached agreement (Exhibit B) with Horsepower Electric.


Department Head


Town Manager

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE CONSTRUCTION OF SOLAR LIGHTS, HANDICAP RAMPS AND PADS ALONG HARDING AVENUE, AUTHORIZING THE TOWN MANAGER TO EXECUTE ALL PURCHASE ORDERS OR OTHER REQUIRED DOCUMENTATION; AUTHORIZING THE FUNDING FROM THE CAPITAL PROJECTS FUND; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside's engineer has determined that the construction of solar lights, handicap ramps, sidewalks and bus stops along Harding Avenue will enhance pedestrian activity along the Town's main corridor.

WHEREAS, the Town's Public Works Department sought quotes from three (3) qualified and experienced firms. All quotes include the required permitting from the relevant agencies, including the Florida Department of Transportation.

WHEREAS, the lowest bidder was Horsepower Electric at a cost not to exceed \$139,027.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization to Purchase. The Town Commission hereby authorizes the construction of solar lights and handicap ramps/pads, by Horsepower Electric at a cost not to exceed \$139,027. The Town Manager is authorized to execute any required purchase orders or other required documentation to construct the

improvements. The construction is an American Recovery and Reinvestment Act (ARRA) project and will be reimbursed to the Town as part of this act.

Section 3. Funding. Total construction and engineering costs of \$149,027 will be recorded in the Town's Capital Projects Fund (Account No. 301-4400-539-6310 (Infrastructure). Funding for construction of \$139,027 to be reimbursed from ARRA project will be recorded in Account No. 301-0000-331-4210 (mass transit-ARRA) while engineering in the amount of \$10,000 will be funded with Reserves (Account No. 301-0000-392-0000).

Section 4. Implementation. The Town Manager and the Town Attorney are hereby authorized to take any and all action necessary to implement this Resolution and Agreement in accordance with the terms, conditions and purposes of this Resolution and Agreement.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of May, 2010.

Daniel Dietch, Mayor

ATTEST:

Town Clerk

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



Lynn M. Dannheisser, Town Attorney

Resolution No. _____

EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE

THIS AGREEMENT is dated as of the _____ day of _____ in the year 20__ by and between **TOWN OF SURFSIDE** (hereinafter called **OWNER**) and _____ Horsepower Electric, Inc. (hereinafter called **CONTRACTOR**).

OWNER and **CONTRACTOR**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

_____ ADA Ramps, Pads and Solar Lights _____

Article 2. ENGINEER.

The Project has been designed by:

Calvin, Giordano & Associates, Inc.
1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316
(954) 921-7781

who is hereinafter called **ENGINEER** and who is to act as **OWNER'S** representative, assume all duties and responsibilities and have the rights and authority assigned to **ENGINEER** in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIMES.

3.1. The Work will be substantially completed within 60 calendar days after the date when the Contract Times commence to run completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 90 calendar days after the date when the Contract Times commence to run.

3.2. LIQUIDATED DAMAGES. **OWNER** and **CONTRACTOR** recognize that time is of the essence of this Agreement and that **OWNER** will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by **OWNER** if the Work is not completed on time. Accordingly, instead of requiring any such proof, **OWNER** and **CONTRACTOR** agree that as liquidated damages for delay (but not as a penalty) **CONTRACTOR** shall pay **OWNER** One thousand four hundred and twenty three dollars and 00/100 dollars (\$1,423.00) for each day that expires after the time specified in paragraph 3.1 for each Substantial Completion date until the Work is substantially complete. If **CONTRACTOR** shall neglect, refuse or fail to complete the project by the project completion date within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by **OWNER**, **CONTRACTOR** shall pay **OWNER** One thousand four hundred and twenty three dollars and 00/100 dollars (\$1,423.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

OWNER shall pay **CONTRACTOR** for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.1 below:

FOR A LUMP SUM CONTRACT OF:

TOTAL BASE BID (Lump sum, Unit prices, and contingency items)

<u>One Hundred Thirty Nine Thousand Twenty Seven Dollars and zero cents</u> (use words)	<u>(\$ 139,027.00)</u> figures
--------------------------------------------------------------------------------------------	-----------------------------------

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by **ENGINEER** as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by **ENGINEER** as provided in the General Conditions.

5.1. Progress Payments; Retainage. **OWNER** shall make progress payments on account of the contract Price on the basis of **CONTRACTOR's** Applications for Payment as recommended by **ENGINEER**, on or about the last day of each month during construction as provided in paragraphs 5.1.1. and 5.1.2. below. All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as **ENGINEER** shall determine, or **OWNER** may withhold, in accordance with paragraph 14.02 of the General Conditions.

90 % of Work completed (with the balance being retainage). If Work has been 50% completed as determined by **ENGINEER**, and if the character and progress of the Work have been satisfactory to **OWNER** and **ENGINEER**, **OWNER**, on recommendation of **ENGINEER**, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed.

90 % (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to **OWNER** as provided in paragraph 14.02 of the General Conditions and within Section 9-6.5 partial payments as provided in FDOT Standard Specifications for Road and Bridge Construction.

5.1.2. When circumstances beyond the **CONTRACTORS** control arise (as determined by the **OWNER**) the **OWNER** may allow the total payment to the **CONTRACTOR** to increase to 98% of the contract price (with the balance being retainage), less such amounts as **ENGINEER** shall determine, only after receipt of the final as-builts and upon substantial

completion of the project and in accordance with Paragraph 14.02 of the General Conditions.

5.2. Final Payment. Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, **OWNER** shall pay the remainder of the Contract Price as recommended by **ENGINEER** as provided in said paragraph 14.07.

Article 6. INTEREST. (Not Applicable)

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce **OWNER** to enter into this Agreement **CONTRACTOR** makes the following representations:

7.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

7.4. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.2.1. of the General Conditions. **CONTRACTOR** accepts the determination set forth in paragraph SC-4.2 of the Supplementary Conditions of the extend of the "technical data" contained in such reports and drawings upon which **CONTRACTOR** is entitled to rely as provided in paragraph 4.2 of the General Conditions. **CONTRACTOR** acknowledges that such reports and drawings are not Contract Documents and may not be complete for **CONTRACTOR's** purposes. **CONTRACTOR** acknowledges that **OWNER** and **ENGINEER** do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. **CONTRACTOR** has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by **CONTRACTOR** and safety precautions and programs incident thereto. **CONTRACTOR** does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5. CONTRACTOR is aware of the general nature of work to be performed by **OWNER** and others at the site that relates to the Work as indicated in the Contract Documents.

7.6. CONTRACTOR has correlated the information known to **CONTRACTOR**, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7. CONTRACTOR has given **ENGINEER** written notice of all conflicts, errors, ambiguities or discrepancies that **CONTRACTOR** has discovered in the Contract Documents and the written resolution thereof by **ENGINEER** is acceptable to **CONTRACTOR**, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between **OWNER** and **CONTRACTOR** concerning the Work consist of the following:

- 8.1. This Agreement (pages 1 to 10, inclusive).
- 8.2. Exhibits to this Agreement (page) inclusive).
- 8.3. Performance, Payment, and other Bonds, identified as exhibits 00600 and 00601 and consisting of 4 pages.
- 8.4. Notice to Proceed.
- 8.5. General Conditions (pages 1 to 61, inclusive).
- 8.6. Supplementary Conditions (pages Xx to XX, inclusive) and any amendments thereto.
- 8.7. Specifications bearing the title Specifications and consisting of X divisions.
- 8.8. Drawings consisting of a cover sheet and sheets numbered as specified in the Drawing Index INX-1.
- 8.9. Addenda No. X through X inclusive.
- 8.10. **CONTRACTOR's** Bid.
- 8.11. Documentation submitted by **CONTRACTOR** prior to Notice of Award (pages N/A to N/A inclusive).
- 8.12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.
- 8.13. Amendments and Additions to the Standard General Conditions of the Construction Contract and the Supplementary Conditions, identified as exhibits N/A and N/A and consisting of 0 pages.

The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 13. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 9. MISCELLANEOUS.

- 9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4. Any provisions or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon **OWNER and CONTRACTOR**, who agree that the Contract Documents shall be reformed to replace such stricken provisions or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5. OTHER PROVISIONS.

9.5.1. DRAWINGS

See Index Sheet on Drawings

9.5.2. In accordance with the indemnification provision contained in the General Conditions, the **CONTRACTOR** agrees to indemnify and save harmless the **TOWN OF SURFSIDE, and their agents and employees**, from or on account of any injuries or damages received or sustained by any person or person during or on account of any operations connected with the construction of all Work; or by or in consequence of any negligence in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said Contractor, subcontractor, agents, servants, or employees; and

9.5.3. The **CONTRACTOR** agrees to maintain in force at all times during the life of the construction, public liability insurance, by separate certificate, in an amount not less than \$1,000,000 for injuries, including willful death, to any one person and subject to those same limits for each person, in an amount not less than \$1,000,000 for damages as a result of each occurrence and property damage insurance and in an amount not less than \$1,000,000 for damages on any one occurrence. Such policy shall specifically protect the **TOWN OF SURFSIDE, AND their agents and employees**, by making them an additional insured, and shall not be modified or canceled without thirty (30) days written notice to the **TOWN OF SURFSIDE**.

9.5.4 Should the final completion and acceptance of the work herein embraced together with any modification or additions be delayed beyond the time herein set because of lack of performance by the Contract, it is understood and agreed that aside from any other liquidated damage per day for such delay from such time until the work is completed and accepted as herein provided, all costs of engineering and inspection on behalf of the Owner will be charged to the contractor and deducted from any estimate or payment otherwise due and payable to him from time to time. The costs of engineering and inspection which may be charged to the Contractor by the Owner under this article shall be equal to the Engineer's charges to the Owner.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in Five (5) parts. One counterpart each has been delivered to **OWNER, CONTRACTOR and ENGINEER**. All portions of the Contract Documents have been signed, initialed or identified by **OWNER and CONTRACTOR** or identified by **ENGINEER** on their behalf.

This Agreement will be effective on _____, 20__ (which is the Effective Date of the Agreement).

ATTEST:

By _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Address for giving notices

License No. _____

Agent for service of process

(If CONTRACTOR is a corporation, attached evidence of authority to sign).

**SIGNATURE PAGE FOR CONTRACTS/AGREEMENTS
TOWN EXECUTIONS**

IN WITNESS WHEREOF, the parties hereto have made and executed this (Agreement or Contract) on the respective dates under each signature: Town of Surfside through its Town Commission, signing by and through its Mayor, authorized to execute same by Commission action on the ____ day of _____, ____; and CONTRACTOR authorized to execute same.

TOWN OF SURFSIDE, through its
Town Commission

ATTEST:

By: _____
Daniel Dietch, Mayor

Town Clerk

____ day of _____, 2010

Approved as to form and legality by
Office of the Town Attorney

By: _____
Town Manager

____ day of _____, 2010

By: _____
Town Attorney

____ day of _____, 2010

(TOWN SEAL)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the _____ of _____, and that _____, who signed the Bid with Town of Surfside, Dade County Florida for _____, Town Bid No. _____, is _____ of said Corporation with full authority to sign said Bid on behalf of the Corporation.

Signed and sealed this ____ day of _____, 20__.

(SEAL)

Signature

Typed w/Title

STATE OF FLORIDA
COUNTY OF DADE

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 20__.

My Commission Expires:

Notary Public

CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

I, _____, certify that I am the _____ of _____, who signed the Bid with Town of Surfside, Dade County Florida for the project titled _____, Consultant Project No. _____, and that the following persons have the authority to sign payment requests on behalf of the Corporation:

_____ (Signature)	_____ (Typed Name w/Title)
_____ (Signature)	_____ (Typed Name w/Title)
_____ (Signature)	_____ (Typed Name w/Title)

Signed and sealed this ____ day of _____, 20__.

(SEAL)

Signature

Typed w/Title

STATE OF FLORIDA
COUNTY OF DADE

SWORN TO AND SUBSCRIBED before me this ____ day of _____, 20__.

My Commission Expires:

Notary Public

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**ADA Ramps, Pads, and Solar Lights
Town of Surfside**

Bid Item	Description	Quantity	Unit	Unit Price	Total
I. General					
1	Mobilization/Demobilization per FDOT (<5%)	1	LS	\$3,372.00	\$3,372.00
2	Maintenance of Traffic per FDOT	1	LS	\$1,230.00	\$1,230.00
3	Site Preparation and Restoration	1	LS	\$1,800.00	\$1,800.00
General Bid Amount					\$6,402.00
II. ADA Ramps & Solar Lighting					
4	ADA Ramp and Curb Demolition	8	EA	\$1,550.00	\$12,400.00
5	Sidewalk Demolition	100	SY	\$30.00	\$3,000.00
6	Existing Bench and Trashcan relocation	13	EA	\$125.00	\$1,625.00
7	Bus Stop ADA Pad	13	EA	\$200.00	\$2,600.00
8	Sidewalk Concrete Restoration	100	SY	\$50.00	\$5,000.00
9	Solar Light Assembly with Pole	6	EA	\$18,000.00	\$108,000.00
Total Base Bid Amount (Item I and II)					\$139,027.00

Total Base Bid in Words

Unit prices include all material, equipment and labor for one unit at locations designated by the Town. Quantities and locations are approximate and may increase or decrease at the discretion of the Town at no additional cost.

Contractor

Date

**Town of Surfside, FL
Capital Improvement Project**

Project:	AARA / LAP						
Priority:	2	Project Manager:		Calvin, Giordano, & Associates			
Department:	Public Works	Division:		AARA / LAP Projects			
Project Location:	Town-wide - Transportation						
Fiscal Year:	FY 10	FY 11	FY 12	FY 13	FY 14	5 year Total	PRIOR FYs
Plans and Studies:							
Engineering/Architecture:	\$10,000					\$10,000	
Land Acquisition/Site Preparation:							
Construction:	\$139,027					\$139,027	
Equipment/Furnishings:							
Contingency							
TOTAL COST:	\$149,027					\$149,027	
Revenue Source:	LAP/CPF						

Description (Justification and Explanation)

93RD Street Solar Lighting Pilot Project: Furnish and install ten solar-powered street lights as part of a Green Town pilot project. The Town leases or owns hundreds of lights and desires to reduce the annual energy cost, while producing pollution free energy. No trenching or special wiring will be required, and no electrical grid or power source will be needed for normal or emergency conditions.

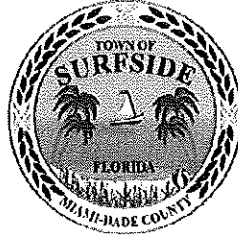
Collins & Harding Avenue ADA Ramps for Bus Stop Access: The Town of Surfside has identified 28 handicap ramps and 13 wheelchair accessory pads that qualify need to be ADA compliant in order to comply with the many varied federal and state regulations. In addition, there are other ADA ramps that only need detectable warnings, which can be surface applied rather than replacing the entire ramp with new concrete. Furthermore, some sidewalk repairs are required.

This project provides ADA access to Bus stops and ingress/egress from Buses. It also provides a solar lighting pilot program for the Town.

The Town's commitment to this project is \$10,000. The balance is provided through outside funding through the Metropolitan Planning Organization's (MPO) Local Area Project (LAP) funds.

Future Annualized Impact on Operating Budget

Personnel:		The anticipated recurring impact of this project is a net positive as the lower costs for energy costs will be ongoing. The costs for maintain these lights is not a factor as the maintenance burden will not be increased from its current condition.
Operating:	0.00	
Replacement Costs:		
Revenue/Other:	Debt Service = \$ _____	
Total:	\$ _____	



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 861-4863

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney *[Signature]*

cc: Gary Word, Town Manager

DATE: June 8, 2010

SUBJECT: Retention of Genovese, Joblove & Battista, P.A.

The Finance Director has advised that there are 171 active delinquent accounts for garbage for which \$150, 821.91 of fees are now due and owing. Additionally, there are 49 active delinquent accounts for water, sewer, and stormwater for which \$69, 304.52 is due and owing. Due to the sheer volume of collections now required, the Town needs to retain counsel to handle these foreclosures. After much research, I have located the firm of Genovese, Joblove & Battista. Richard Sarafan who will be handling these matters for the Town should you choose to retain this firm has extensive experience with foreclosure related litigation and has also served as the Village Attorney for Miami Shores for the past 12 years. He has had very good success collecting these liens on properties already in foreclosure where the Town is named as a defendant as these are priority liens but where necessary they will also prosecute the foreclosure claims to collect.

The firm will require up to a \$500 initial filing fee and will recover a fixed fee from the recovery of fees from the litigation unless these matters take in excess of six months in which case, the Town would cover the fee and collect it back at the conclusion of the litigation. Mr. Sarafan will be present to answer any questions you may have.

RECOMMENDATION: It is recommended that you approve this firm.

RESOLUTION NO. 2010- ____

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GENOVESE JOBLOVE & BATTISTA, P.A. TO ASSIST THE TOWN OF SURFSIDE WITH THE COLLECTION OF VARIOUS SPECIAL ASSESSMENT LIENS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside, Florida (“TOWN”) wishes to enter into an agreement with Genovese Joblove & Battista, P.A., a full-service law firm to assist the Town in lien foreclosure services on a fixed fee basis, which fee shall be deducted from lien monies; and

WHEREAS, the Town Commission believes that it is in the best interest of the Town to enter into a retainer agreement with Genovese Joblove & Battista (See attachment as Exhibit “A”);

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

Section 1. Recitals. The above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization. The Town Commission hereby authorizes the execution of the agreement with Genovese Joblove & Battista, P.A. attached hereto as Exhibit “A” and authorizes the Town Attorney and Town Manager to do all things necessary to effectuate this Agreement.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

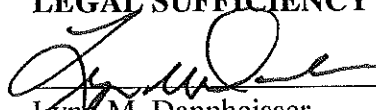
PASSED and ADOPTED on this 8th day of June 2010.

Daniel Dietch, Mayor

ATTEST:

Debra E. Eastman, MMC
Town Clerk

**APPROVED AND TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser
Town Attorney

GENOVESE
JOBLOVE &
BATTISTA
 P.A.
Attorneys at Law

RECEIVED
 5/27/10

Richard Sarafan
 Direct Line: 305.349.2318
 Email: rsarafan@gjb-law.com

May 26, 2010

Via U.S. Mail
and Via Telefax 305-861-1302

Lynn Dannheisser
 Town of Surfside
 9293 Harding Avenue
 Surfside, FL 33154

Re: Proposal for Lien Foreclosure Services

Dear Lynn:

Following up on our telephone conversation, this letter will confirm my keen interest in assisting the Town of Surfside with the collection of various special assessment liens. As you are aware, I have been the Village Attorney for Miami Shores Village for about 12 years and I have over 30 years experience litigating in South Florida, including extensive experience with foreclosure related litigation. I enclose some biographical information regarding my background and I would be happy to provide any additional information you or your Commission members might require.

We are currently handling a surprising large volume of lien foreclosure work for Miami Shores Village, as a result of the current economic conditions, and I suspect that Surfside might be experiencing some of the same dynamics. Our system currently in place with Miami Shores involves the Village generating the initial billing, first reminder letter and recordation of each lien. If those efforts are not successful in achieving payment the matter is forwarded to our firm where an attorney's demand letter is generated, followed, if necessary, by a lien foreclosure action. More commonly, the Village is named as a defendant in a mortgage foreclosure as a consequence of its recorded lien, in which event we file a cross-claim and counterclaim in that action, for foreclosure of the special assessment lien, and seek to resolve the matter expeditiously by means of having the mortgage holder pay the superior municipal lien (plus interest, attorney's fees and costs) and simply add that amount to its foreclosure claim. We have achieved a fair amount of success through these means but, where necessary, we can and do prosecute the foreclosure claims to completion in order to collect such liens.

I assume that the liens recorded by the Town of Surfside are such that the Town is entitled to recover its attorney's fees in connection with the enforcement thereof (as is the case with Miami Shores). Under the scenarios detailed above, except in the rare cases where we need to go all the way through a full foreclosure to enforce the municipal lien, our attorney's fees per

*Lynn Dannheisser
Town of Surfside
May 26, 2010
Page 2*

case have ranged from around \$1,500 to around \$2,500 (not including costs). Depending on the volume of cases we might expect to be generated by the Town of Surfside, I am certain we could reach agreement on a reasonable fee arrangement with due regard for the Town's cash flow concerns. Specifically, for example, we could propose an arrangement whereby the Town makes a fixed payment to our firm for each case we are asked to handle, sufficient to cover initial filing fees and costs (I am thinking somewhere in the range \$500.00) with our firm rendering monthly billings to the Town (which would also serve to keep the Town informed as to the progress of each action) but not requiring payment thereof until recovery of attorney's fees from the other side in the litigation or until the expiration of a reasonable specifically defined forbearance period (I am thinking of something in the order of 6 months, in order to protect the firm against having to carry excessive accounts receivable from the Town in the event of a hotly contested case or other unusual), whichever comes first.

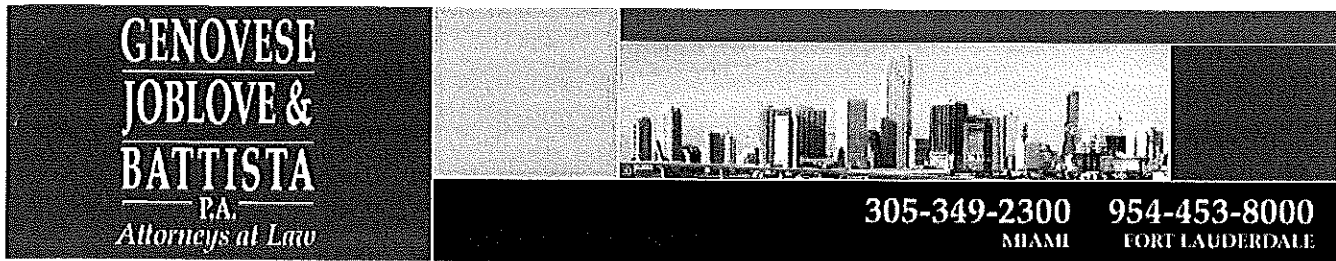
This is just one conceptual means of addressing the Town's concerns and I am totally open to discussing any alternative ideas you might have.

I look forward to discussing all of this with you after you have a better idea of what would best serve the interests of the Town of Surfside; and I thank you for the opportunity to be of service.

Very truly yours,


Richard Sarafan

RS/dr
Enclosure



ATTORNEY PROFILES

Richard J. Sarafan

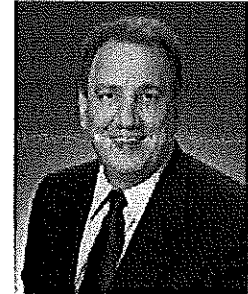
Miami, Florida

Partner

phone (305) 349-2318

fax 305-349-2310

email rsarafan@gjb-law.com



Richard J. Sarafan concentrates his practice in the areas of complex commercial, corporate, bankruptcy and real property litigation as well as local government law.

With 30 years of litigation experience, he has been involved in a wide range of matters including contract disputes, condominium related litigation, construction litigation, foreclosures, banking law, tort actions, arbitrations, administrative proceedings, partnership disputes and landlord tenant matters, among many others.

Mr. Sarafan is AV rated by Martindale-Hubbell and has been repeatedly named one of South Florida's top lawyers by the South Florida Legal Guide. He has also served as the Village Attorney for Miami Shores Village, Florida, since 1998. In that position, he has dealt with virtually all municipal issues, ranging from zoning and land use litigation, defense of police misconduct claims, municipal bond work, code enforcement issues and other areas of local government law.

Mr. Sarafan is a member of the Florida Bar and admitted to practice before the United States Court of Appeals for the Third and Eleventh Circuits, the General, Bankruptcy and Trial Bars of the United States District Court for the Southern District of Florida, the Bar of the United States District Court for the Middle District of Florida, and the Bar of the United States District Court for the Northern District of California. He received his Juris Doctor from the University of Florida College of Law, with honors, in 1979 and his Bachelor of Science degree from the University of South Florida in 1976.

Areas of Practice:

- Complex Commercial
- Corporate
- Bankruptcy
- Real Property Litigation
- Local Government Law

Litigation Percentage:

75% of Practice Devoted to Litigation

Bar Admissions:

Florida, 1980
U.S. District Court Southern District of Florida, 1981
U.S. District Court Middle District of Florida, 1994
U.S. District Court Northern District of California, 1990
U.S. Court of Appeals 11th Circuit, 1990
U.S. Court of Appeals 3rd Circuit, 1994

Education:

University of Florida College of Law, Gainesville, Florida, 1979
J.D.
Honors: With Honors

University of South Florida, Tampa, Florida, 1976
B.S.

Representative Clients:

Miami Shores Village

Honors and Awards:

AV Rated, Martindale-Hubbell

One of South Florida's Top Lawyers, South Florida Legal Guide

Professional Associations and Memberships:

Village Attorney, 1998 - Present
Miami Shores Village, Florida

Florida Bar
Member

Past Employment Positions:

Richard and Richard, Partner, 1979 - 2002

Languages:

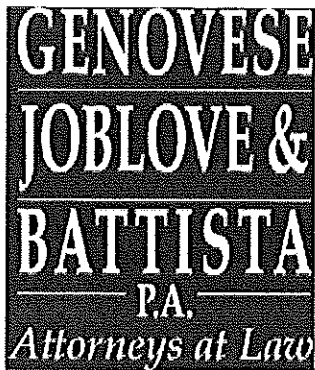
English

Fraternities/Sororities:

Phi Delta Phi

Birth Information:

July 8, 1955, Spring Valley, New York, United States of America



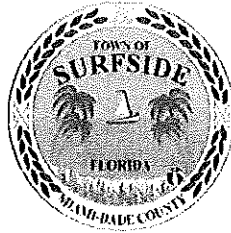
Wednesday, May 26, 2010
100 Southeast Second Street,
44th Floor
Miami, Florida 33131
Phone: (305) 349-2300
Toll Free: (888) 768-2499
Fax: (305) 349-2310

[Email Us](#) | [Get Directions](#)

200 East Broward Boulevard,
Suite 1110
Fort Lauderdale, Florida 33301
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Fax: (954) 453-8010

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**Town of Surfside
Commission Communication**

Agenda Item # 5D

Agenda Date: June 8, 2010

Subject: Proposed Mid-Year Budget Amendment Resolution – FY 2009-2010

Background: The State of Florida, the Charter of the Town of Surfside, and sound management practices, require monitoring of the budgetary condition. The budget requirements include maintaining a balanced budget and a prohibition against entering into encumbrances for which there is not adequate appropriation. Since the Town is prohibited from spending more money that it anticipates receiving, modifications are required to two of the Town's funds. The attached documents represent in summary form and in detail form, the amendments which are proposed to ensure compliance with State law and sound budget practices.

Analysis: Staff has revisited and scrutinized all the current fiscal year's anticipated revenues and expenditures. The resulting projections indicate that budgetary appropriation amendments are needed for two funds: the General Fund and Capital Projects Fund. The amendments to the general fund total \$304,343 which is approximately two tenths of one percent (.2%) of that funds adopted budget. The amendments to the Capital Projects Fund total \$149,027 which is approximately three percent (2.96%) of that funds adopted budget.

The modifications to the General Fund result largely from insufficient funding for unemployment compensation claims, underfunding of the office supplies for the shared first floor printing room. In addition, a slight net revenue shortfall (\$43,289) is anticipated for that fund. To address those items, Town staff has identified areas where operating budgets may be reduced without requiring an additional appropriation of reserves. The changes to all accounts are detailed in Attachment A. The net effect is a reduction in the budget.

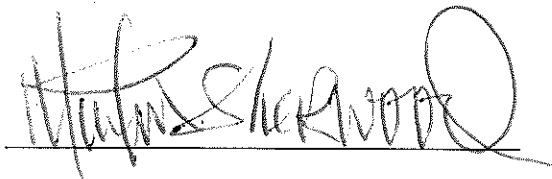
The modifications to the Capital Projects Fund results exclusively from a grant funded project which was not included in the FY 2009 – FY 2010 Adopted Budget. Of the requested budgetary increase of \$149,027, all but \$10,000 will be augmented by a Federal Transportation (ARRA) Grant. The final \$10,000 appropriation increase is proposed to come from the Capital Projects Fund reserves. The changes to all accounts are detailed in Attachment B. The net effect is an increase in the budget.

The other Town funds have been examined as well. Current projections indicate that there is no need to modify the appropriations for these funds.

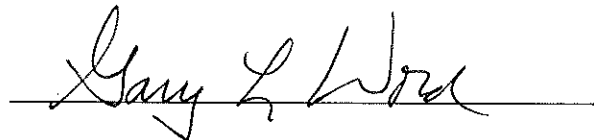
Budget Impact: With the adoption of the net spending decrease in the General Fund and the spending increase in the Capital Projects Fund a number of budgetary transfers will occur within each fund.

Staff Impact: Continued budgetary restraint will be required throughout the organization. No layoffs, furloughs, or position reductions are required to re-balance the budget and meet the Town's budgetary requirements.

Recommendation: It is recommended that the Surfside Town Commission adopt the proposed FY 2009-2010 mid-year General Fund and Capital Projects Fund budget amendment resolution as submitted (Attachment C).



Finance Support Services Dept Head



Town Manager

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE ANNUAL APPROPRIATIONS RESOLUTIONS ADOPTED FOR THE FISCAL YEAR OCTOBER 1, 2009 TO SEPTEMBER 30, 2010; FOR THE PURPOSE OF AMENDING THE CURRENT YEAR'S GENERAL FUND BUDGET DOWNWARD AND CAPITAL PROJECTS FUND UPWARD; AND OTHER BUDGETARY ADJUSTMENTS REQUIRED TO THE FISCAL YEAR ENDED SEPTEMBER 30, 2010 BUDGET; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside adopted Resolution Nos. 09-1902, 09-1903 on September 22, 2009 establishing revenues and appropriations for the Town of Surfside, Florida for the fiscal year ended September 30, 2010; and

WHEREAS, the Town's General Fund operation revenues (income) have declined and the most notable declines result from low interest rates and anticipated reduced ad valorem (property tax) collections; and

WHEREAS, the Town's Capital Projects Fund has received an unbudgeted increase through grant revenues; and

WHEREAS, to address the corresponding necessary modifications in expenditures and incomes, the Finance Support Services Department staff has met with the Town Manager and Department heads to identify modifications with minimal impact on service delivery. Most of the expenditure reductions have resulted from Department heads implementing and accomplishing cost saving measures; and

WHEREAS, a reduction to the funds budgeted revenue estimates is required for the General Fund and an increase to the Capital Projects Fund, and as a result of State statutes as well as the Town's commitment to sound budgeting practices, budgeted expenses may not exceed anticipated revenues. Accordingly, the budget resolution proposes to amend the current year's budget as set forth as Attachments A and B.

WHEREAS, it is in the best interest of the Town of Surfside to adopt the proposed FY 2009-2010 amendatory General Fund and Capital Projects Fund budget resolution as submitted.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,

Section 1. Recitals. That the above and foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Authorization. The Town Commission hereby approves and authorizes the proposed budget 2009/10 amendments where the net effect would be a .2% reduction in the General Fund and a 2.96% increase in the Capital Projects Fund, of both projected revenues and expenditures for the current, 2009-2010 fiscal year.

Section 3. Implementation. The Town Manager is hereby authorized to take any and all action necessary to implement this Resolution.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 8th day of June, 2010.

Daniel Dietch, Mayor

Attest:

Debra E. Eastman, MMC

Town Clerk

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**

Lynn M. Dannheisser

Town Attorney

TOWN OF SURFSIDE, FLORIDA
BUDGET TRANSFER/AMENDMENT REQUEST (Detailed)

Fiscal Year: 2009/2010

Fund No.: 001

BA #
Fund Name: General Fund
Department: Multiple

Account Number	Account Description	Justification	Increase Expenditure Account	Decrease Expenditure Account	Increase or (Decrease) Revenue Account
Revenues		MID-YEAR FY 2010 Budget Amendment			
001-0000-311-1000	Real Personal Property				(48,473)
001-0000-311-1001	Tangible Personal Property				1,509
001-0000-312-1200	Two Percent Resort Tax (Food)				16,000
001-0000-312-1400	Four Percent Resort Tax				(30,500)
001-0000-312-1500	Resort Tax Penalty				1,000
001-0000-312-4100	First Local Option Gas Tax				(500)
001-0000-312-4200	Second Local Option Gas Tax				(574)
001-0000-323-1000	Electric Franchise				4,921
001-0000-323-4000	Gas Franchise				(9,771)
001-0000-314-1000	Electric Utility				(5,216)
001-0000-315-0100	Telecommunication Simplification Tax				6,101
001-0000-314-4000	Gas Utility				(4,560)
001-0000-316-0100	Surfside Local Business Licensing Tax				16,000
001-0000-316-0200	Miami-Dade Occ. Lic. Tax Share				(1,050)
001-0000-316-0300	Surfside Business Lic. Tax Penalty				100
001-0000-322-1000	Building Permits				84,714
001-0000-322-3000	Plumbing Permits				2,971
001-0000-322-4000	Mechanical Permits				11,014
001-0000-322-6000	Structural Review				3,643
001-0000-329-1000	Variance Fee				(500)
001-0000-329-2101	Lobbyist Fees / Registration				1,250
001-0000-335-1200	State Revenue Sharing				3,914
001-0000-335-1500	Beverage Licenses				500
001-0000-335-1800	1/2 Cent Sales Tax				2,486
001-0000-335-4900	Motor Fuel Tax Rebate				(900)
001-0000-341-8000	Permit Penalties				5,413
001-0000-341-9000	Election Qualifying Fees				25
001-0000-347-2004	Recreation - Room Rentals				(143)
001-0000-347-2006	Recreation - Winter Camp				(1,186)
001-0000-347-2007	Recreation - Summer Camp				(2,050)
001-0000-347-2011	Recreation - Beach Equipment Rentals				(960)
001-0000-347-2015	Recreation - Senior Programs				7,500
001-0000-347-2016	Recreation - Youth Sports Programs				(43,260)
001-0000-359-1001	Parking Violations				(33,000)
001-0000-359-4000	Code Enforcement Fees and Penalties				11,089
001-0000-361-1000	Interest Earnings				(27,400)
001-0000-369-9010	Other Miscellaneous Revenues				(13,396)
Expenditures					
001-1000-511-5290	Misc Operating Supplies	LEGISLATIVE		2,500	
001-1500-514-2210	Pension	LEGAL	2,316		
001-1500-514-4410	Communications	LEGAL	2,400		
001-2000-512-1210	Regular Wages	EXECUTIVE DEPT		2,702	
001-2000-512-2210	Pension	EXECUTIVE DEPT	3,608		
001-2000-512-3110	Professional Services	EXECUTIVE DEPT		15,000	
001-2000-512-3410	Other Contractual	EXECUTIVE DEPT		20,100	
001-2000-512-5420	Conferences & Seminars	EXECUTIVE DEPT	1,300		
001-2100-513-2210	Pension	FINANCE SUPPORT SVCS		732	
001-2100-513-2310	Insurance	FINANCE SUPPORT SVCS		400	

001-2100-513-3110	Professional Services	FINANCE SUPPORT SVCS		2,000	
001-2100-531-3210	Accounting & Auditing	FINANCE SUPPORT SVCS		3,000	
001-2400-519-1210	Regular Salaries	TOWN CLERK		60,548	
001-2400-519-2210	Pension	TOWN CLERK		5,158	
001-2400-519-3410	Other Contractual Services	TOWN CLERK		5,500	
001-2400-519-4110	Postage	TOWN CLERK		99	
001-2400-519-4911	Other Current Charges	TOWN CLERK	500		
001-2400-519-5290	Misc Operating Supplies	TOWN CLERK		5,000	
001-2400-519-5420	Conferences / Seminars	TOWN CLERK		500	
001-2500-524-1210	Regular Salaries	BUILDING SERVICES	2,387		
001-2500-524-1310	Other Salaries	BUILDING SERVICES	71,798		
001-2500-524-1510	Special Pay - Longevity	BUILDING SERVICES	2,000		
001-2500-524-2110	Payroll Taxes	BUILDING SERVICES	5,179		
001-2500-524-2310	Insurance	BUILDING SERVICES		125	
001-2500-524-2410	Worker's Compensation	BUILDING SERVICES	1,187		
001-2500-524-3410	Other Contractual Services	BUILDING SERVICES		31,243	
001-2500-524-4610	Vehicle Maintenance	BUILDING SERVICES		100	
001-2500-524-4710	Printing & Binding	BUILDING SERVICES		100	
001-2500-524-5216	Gasoline	BUILDING SERVICES		1,000	
001-3000-521-1210	Regular Salaries	PUBLIC SAFETY		35,000	
001-3000-521-1410	Overtime	PUBLIC SAFETY		20,000	
001-3000-521-2110	Payroll Taxes	PUBLIC SAFETY	22,452		
001-3000-521-2210	Pension	PUBLIC SAFETY		4,671	
001-3000-521-3110	Professional Services	PUBLIC SAFETY		1,826	
001-3000-521-4111	Postage	PUBLIC SAFETY	445		
001-3000-521-5110	Office Supplies	PUBLIC SAFETY		2,000	
001-3000-521-5214	Uniforms	PUBLIC SAFETY		8,000	
001-3000-521-5216	Gasoline	PUBLIC SAFETY	30,300		
001-3000-521-5217	Canine Allowance	PUBLIC SAFETY	1,200		
001-3000-521-5490	Misc Operating Supplies	PUBLIC SAFETY	1,826		
001-3000-521-6410	Machinery & Equipment	PUBLIC SAFETY	331		
001-5000-539-2110	Payroll Taxes	PUBLIC WORKS	822		
001-5000-539-2210	Retirement	PUBLIC WORKS		885	
001-5000-539-3110	Professional Services	PUBLIC WORKS		32,000	
001-5000-539-3112	Physical Examinations	PUBLIC WORKS		195	
001-5000-539-4009	Car Allowance	PUBLIC WORKS	800		
001-5000-539-4110	Telecommunications	PUBLIC WORKS	925		
001-5000-539-4111	Postage	PUBLIC WORKS	218		
001-5000-539-4310	Electricity	PUBLIC WORKS	37,493		
001-5000-539-4311	Water & Sewer	PUBLIC WORKS	4,900		
001-5000-539-4602	Building Maintenance	PUBLIC WORKS		13,053	
001-5000-539-5210	Property & Maintenance	PUBLIC WORKS	1,500		
001-5000-539-5216	Gasoline	PUBLIC WORKS		60,000	
001-5000-539-5420	Conferences & Seminars	PUBLIC WORKS		800	
001-6000-572-1210	Regular Wages	PARKS & RECREATION	18,456		
001-6000-572-1310	Other Salaries - Includes Seasonal	PARKS & RECREATION	15,519		
001-6000-572-2210	Pension	PARKS & RECREATION		407	
001-6000-572-4310	Electricity	PARKS & RECREATION		3,100	
001-6000-572-4810	Promotional Activities	PARKS & RECREATION	3,500		
001-6000-572-5290	Misc Operating Supplies	PARKS & RECREATION		1,800	
001-6000-572-6410	Machinery & Equipment	PARKS & RECREATION		2,500	
001-6500-571-2210	Retirement	LIBRARY		407	
001-6500-571-4510	Property Insurance	LIBRARY	6,900		
001-6500-571-5911	Other Current Charges	LIBRARY		5,000	
001-6600-552-1410	Overtime	TOURISM		18	
001-6600-552-2210	Retirement	TOURISM		163	
001-6600-552-2410	Worker's Compensation	TOURISM	67		
001-7900-590-2510	Unemployment Compensation	NON-DEPARTMENTAL	47,500		
001-7900-590-4601	Maintenance / Repair Contracts	NON-DEPARTMENTAL	2,372		
001-7900-590-4911	Other Current Charges	NON-DEPARTMENTAL	1,889		
001-7900-590-5110	Office Supplies	NON-DEPARTMENTAL	9,500		
001-7900-590-9310	Contingency	NON-DEPARTMENTAL	2,753		
NET CHANGE GENERAL Fund			304,343	347,632	(43,289)

Requested by: _____
Department Director

Approved: _____
Finance Support Services Director

Approved: _____
Town Manager

Entered to Naviline _____
By _____ Date _____

ATTACHMENT B

TOWN OF SURFSIDE, FLORIDA BUDGET TRANSFER/AMENDMENT REQUEST

Fiscal Year: 2008/2009

BA #

Fund No.: 301

Fund Name:	Capital Projects Fund
Department:	Multiple

Account Number	Account Description	Justification	Increase Expenditure Account	Decrease Expenditure Account	Increase or (Decrease) Revenue Account
Revenues			MID-YEAR FY 2010 Budget Amendment		
301-0000-331-4210	Federal Mass Transit (ARRA) Grant				139,027
301-0000-329-0000	Appropriated Fund Balance				10,000
Expenditures					
301-4400-541-6310	Infrastructure	PUBLIC WORKS	149,027		
NET Change Captial Projects Fund			149,027	-	149,027

Requested by: _____
Department Director

Approved : _____
Finance Support Services Director

Approved : _____
Town Manager

Entered to Naviline _____
By Date



TOWN OF SURFSIDE
Office of the Town Attorney


MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 993-1065

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney 

cc: Gary Word, Town Manager
 Debra E. Eastman, M.M.C., Town Clerk

DATE: June 8, 2010

SUBJECT: Town Attorney Monthly Update

-
1. **Commission Issues:** Commendably, the Mayor and Commissioners continue to put in hours of time educating themselves in the on-going management and legal matters of the Town. My Office has spent a good deal of time with the Commission in this process. As is the case monthly, this office prepares many of the agenda materials found in the Commission agenda. Other specific commission issues are addressed below in the ongoing issues section.
 2. **Board Issues:**
 - A. **Planning and Zoning:**
 A new Design Review Board was seated this past month. They were administered the oath of office and proceeded immediately to work. Next month we will give them a workshop on quasi judicial procedures and issues relating to their duties as the Local Planning Agency.
 - B. **Pension Board:**
 The Board was re-seated and discussions relating to legal representation were had with the Chair.
 - C. **Personnel Appeals Board:**
 This Board was revisited and requires appointment at some point.

3. Litigation.

Pending:

John Davis v. Town of Surfside Case No. 07-17286 CA 08, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This case has been consolidated with a previous case filed by a former sergeant in the Town's police department, John Davis who seeks to prevent the Town from proceeding with disciplinary action against him pursuant to IA investigations where it was determined that Davis breached his duties as a police officer and he was terminated in October, 2007. The case remains in the discovery stage including depositions as well as several all-day meetings and strategy sessions. We continue to explore settlement avenues. If this results in anything concrete, we will have an executive session. In the meantime, we simultaneously prepare to go to trial. **NO CHANGE IN STATUS**

Florida League of City Cases: We monitor, coordinate witnesses from our staff, and confer with League counsel on those injury cases that are covered by the FMIT. Today, these are as follows:

John Davis v. Town of Surfside OJCC Case No.: 07-024495C. John Davis filed a Workers' Compensation claim for compensation of a hypertension-hyperglycemic condition he claims he suffered as a result of his work with the Town of Surfside. This matter continues in the discovery phase. Final Hearing is scheduled for August 30, 2010. **NO CHANGE IN STATUS**

Warren Blum v. Town of Surfside Case No. 02-19134 CA 08. This action commenced in 2001 against the Town, former Town Manager, Rodriguez and former Police Chief, Boemler. Blum, a former police officer alleges breach of contract, violation of policeman's bill of rights and fraud in the inducement. Discovery is ongoing and this case has not been set for trial. **NO CHANGE IN STATUS.**

Dina Agin v. Town of Surfside Case No. 07-41974 CA 30 Dina Agin filed a complaint seeking damages for injuries allegedly arising from a trip and fall accident due to a defective condition on the property/premises/sidewalk near the corner of 96th Street and Bay Drive in the Town of Surfside. Discovery is ongoing, Mediation was held on April 28 which resulted in an impasse. No trial date has been set. Plaintiff intends to amend the complaint to add Bay Harbor Islands, Bal Harbour and Miami-Dade County as co-defendants. **NO CHANGE IN STATUS**

New Litigation:

Elizabeth Bankes vs. Town of Surfside. Case No. 10-24860 CA 22

A complaint has been served on the Town of Surfside alleging a violation of Ms. Bankes' procedural due process rights to participate in a quasi-judicial land use hearing conducted by the Town of Surfside regarding the 9200 Collins Avenue property. In addition, Ms. Bankes petitioned the Court to issue a Writ of Certiorari directed to the Town of Surfside quashing the quasi-judicial action and requested the Court issue an Order to Show Cause why the Petition should be granted. The Town stipulated to a Stay of Proceedings until August 16, 2010 which the Court has granted. I have had discussions with counsel for the Plaintiff and he has agreed that if the zoning code is re-enacted, and the site plan which is the subject of this litigation is reheard under the new notice provisions of the code, this case will be moot.

Potential Upcoming Litigation:

Lien Foreclosures:

The Town is due and owed approximately \$220,126.43 in back fees for utilities, garbage and other preferred liens. We will need now to file liens and lien foreclosures in an attempt to collect these monies.

Special Master Code Enforcement Cases:

Although there has been an amnesty period put into effect for the next 120 days, there will be certain cases that will now be brought before a special master as we enter hurricane season and if there are life safety issues at stake. We will be preparing for these.

- 4. Budget Preparation.** In connection with upcoming budget workshops, and the budget timetable in general, we have been working with our auditors on assessing potential legal liabilities. We are also working with our Finance Director and budget consultant to accurately assess legal fees and deal with funding matters as well as dealing with IRS issues.

5. Ongoing Matters of Interest:

- We have a new legal intern from St. Thomas who started this month and will devote 16-20 hours of work to the Town.
- Ongoing construction and permitting issues related to the Community Center continue to require legal attention including issues relating to AECOM, Wingerter

auger cast pile installation inspection and testing, contractual and construction fencing issues.

- The FP & L Franchise Agreement has been renegotiated, redrafted, and become part of the agenda for this month.

- We have been going through voluminous records requests from various parties, producing and reviewing email correspondence with and for the Town Clerk. We have had several discussions with Commission on Ethics.

- Downtown Business District Issues including parking and licensing continue to be looked at. We have spent a great deal of time this month working with the Planners to produce the parking trust fund alternative as an alternative means of addressing the downtown parking issues.

- We have had personnel matters to deal with including update of administrative policies on arrests of employees, FMLA, and FSLA issues, dealing with attorney general's office on these as well as worker's comp issues.

- We are working with Public Works on agreements for the installation of the stamped asphalt crosswalks to various intersections along S.R. A1A/Harding Avenue, from the Bal Harbour Shop entrance to 94th Street; the LAP/ARRA-Stimulus Fund Projects including the ADA Ramps and Pilot Solar Lighting projects, as well as the **Interlocal Agreement** between Miami-Dade Transit Agency and the Town for Federal Funding Pass-Through Arrangements with the American Recovery and Reinvestment Act (ARRA) of 2009 Federal Transit (FTA 5307) for the Town to Install Bus Shelters and finally the MOA for the reimbursement for \$13,053 to the Town from FDOT.

- Research issues included:

Liability case law and issues pertaining to zoning (majority of the time)

Mason's Rules

Financial disclosures and committees

Fla. Stat. 218.503

PACE HB07179

Notice Requirements-Fla. Stat. 166.041

Transportation requirements to out of municipality meetings

Lien letters

FMLA policy

Public Records Issues

- We also continue to monitor legislation out of Tallahassee and Miami Dade County that would impact the Town including opinions issued by other municipalities. New opinions relating to public records and rendition of orders have come down from the courts.

- Our Office has rendered 32 opinions this month.



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

DISCUSSION ITEM MEMORANDUM

Title: Occupancy Regulations

Objective: Update

Consideration:

Update status on the issue raised last month of the occupancy regulations at the Lily Pad hotel and the Carlyle Condominium.

The basis for this item is that complaints have been received that the Lily Pad allows renters to exceed the capacity allowed per unit , and the Carlyle advertises that they have units for rent on daily ,weekly or monthly basis.

Both would represent code violations.

Marta Olchyk, Commissioner



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

DISCUSSION ITEM MEMORANDUM

Title: Beach Walk Beautification

Objective: Weekly Clean up

Consideration:

We should be taking steps into assign employees to clean up on a weekly basis at least, the debris, dogs, cats excrements that have been accumulating in the bushes for quite a while and produces bad odors.

Police personnel should be assigned so that at least a few times during the day they oversee and enforce the law of having dogs on leash and not allowing trash to be discarded on public domain .

Marta Olchyk, Commissioner



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

DISCUSSION ITEM MEMORANDUM

Title: Surfside Color Guard – Participation In Military Funerals

Objective: Desire for the Surfside Color Guard to attend military and/or non-military funerals of Veterans that called Surfside home. I would like to see this same duty/honor/privilege given to any and all (past, present and future) Town of Surfside Police Officers.

Consideration: I attended a funeral of a resident of Surfside, who was also a Marine.

I believe it is both an honor and obligation our Town has to those that served our Nation.

Police Department input is both crucial and appreciated.

Respectfully,

Joe Graubart

Vice Mayor



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

DISCUSSION ITEM MEMORANDUM

GRAUBART

Title: SHORT TERM RENTALS – Single Family Homes and Condominiums

Discussion Only – Determine if Commission shares my concerns re: Short Term Rentals

Objective: Discuss SHORT TERM RENTALS – Single family homes – Condominiums

Consideration: Determine: The impact of SHORT TERM RENTALS

Example: SIX MONTH RENTAL MINIMUM

Taxes currently collected??? \$ _____ Learn what if any benefits Town has?

Economic impact of proposed ordinance?? PUBLIC WORKS IMPACT (water/sewer)

Enforcement: Difficult, yes. SURFSIDE P D INPUT re: this subject.

Need to have the ‘law’ or Ordinance – so as to let would be investors know that Town policy is: NO SHORT TERM RENTALS and that enforcement is possible. To help prevent and persuade investors from buying homes as an investment - to rent out and therefore, to go elsewhere. To now, get ahead of the problem.

Discuss if Condo ‘Docs’ (rules and regs) cover their unique concerns. And, Condo owners need/desire to be covered by this Ordinance.

Respectfully, Joe Graubart



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

DISCUSSION ITEM MEMORANDUM

FROM: COMMISSIONER KOPELMAN

Title: SHARING MUNICIPAL SERVICES WITH SURROUNDING TOWNS

Objective: Discuss the viability of sharing municipal services, explore which services make sense from a management and legal perspective and what other towns are interested in doing?

Consideration: Should this Commission give town manager and town attorney direction on this matter and request information on what budgetary savings can result from this.



**Town of Surfside
Town Commission Meeting
May 11, 2010
7 p.m.**

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

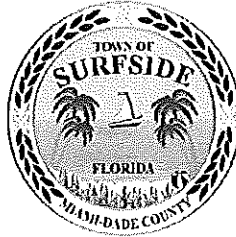
**DISCUSSION ITEM MEMORANDUM
Downtown Revitalization**

Title: Downtown Revitalization

Objective: To discuss the downtown revitalization approach/framework developed by staff, the Planning & Zoning Board and our previous Town Commission and gain consensus on a path forward.

Consideration: Staff, the Planning & Zoning Board and the previous Town Commission developed the attached downtown revitalization approach/framework. Progress has been made, but much work remains which will require financial and staff resources that are not currently budgeted. As we approach budget season, I submit that this is a priority for our Town and it is not too soon to begin our discussions and see if there is consensus amongst the Commission to identify this opportunity as a budget priority.

attachments



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Planning & Zoning Boardmembers
Design Review Boardmembers

FROM: Lynn M. Dannheisser, Town Attorney

cc: Town Commission
Tourist Bureau Committee
Gary Word, Town Manager
Paul Goia, Building Official
Duncan Tavares, Tourist Bureau Director

DATE: November 19, 2009

SUBJECT: BUSINESS DISTRICT REVITALIZATION EFFORT

Background. As economic conditions decline, the Town is also witnessing a decline in economic retail and tourist business (and concomitant decline in standards of property maintenance) as well as an increase in the number of vacant storefronts and tourist business. The Planning & Zoning Board (as well as several Commissioners, Tourist Bureau members, the Building Official and Code Enforcement Officer) who attended the last P & Z meeting) has expressed an interest in creating a revitalization and redevelopment strategy for the downtown business district that will eventually be recommended to the Town Commission.

You asked Sarah Sinatra and I to create a plan as well as a timeline for its accomplishment for the P & Z Board to consider at this month's meeting - considering both things that can be done immediately (and with little cost) as well as some long range efforts. Sarah and I have researched and brainstormed these issues considering the Town's charrette

documents, our collective municipal and planning experience and attendant expertise with regard to parking, design, economic revitalization, public works and traffic, code enforcement, and constitutional/property law/zoning legal issues. We would propose the following which is intended only but, as a minimum, to form the basis for discussion and debate.

Specifically, the following are things that can be done immediately and with little cost:

November - January

- ❖ Code Enforcement (i.e. real estate signs, signs and awnings in disrepair)
- ❖ Color Palette (i.e. choosing colors choices for façade improvements)
- ❖ Awning colors (i.e. choosing colors choices for new awnings)
- ❖ Pressure clean sidewalks
- ❖ Replace landscaping
- ❖ Special event promotion (3rd Thursdays, etc.)
- ❖ Create better property maintenance standards (i.e., add things like: "every merchant, storekeeper or operator of a business in the city shall sweep or cause to be swept the sidewalks adjoining his respective place of business, and continuing as often as necessary thereafter to keep the area clean, on each day such business shall be operated. The sweepings shall be picked up and not swept into the gutter...")

The foregoing in our opinion are all things on which we have heard a general consensus of opinion. Thereafter, however, Sarah and I felt less certain on whether a consensus has been achieved. When faced with such situations in the past, I have found one recommended course of action is to learn what a majority of people in a municipality want or envision by virtue of developing a survey. Hence, if you agree, we would propose the following as the next step:

December - February

- ❖ Formulate a Town Survey / Questionnaire to Residents, examples below:
 - Do you want a unified theme for the Surfside Business District?
 - Trashcans, benches, signage, landscape, elevations, Publix look, etc.
 - If undecided or don't want to create uniformity with regard to all items, do you want to see some uniformity on individual items such as:
 - signs
 - trashcans
 - benches
 - elevations, i.e., the Publix "look"
 - lighting
 - windows
 - colors
 - Do you want to see mixture of uses?
 - Retail, office & residential, or
 - Retail & office
 - Do you want a pedestrian friendly environment? If yes, would you like to see:
 - Wider sidewalks

- Narrower roads
- Pedestrian only streets or malls
- Bicycle paths and racks
- Do you want to see a common brand? If so, which of the following:
 - Mimo Surfside
 - Historic Surfside
 - Beachfront Surfside
 - Other_____
- Do you want a slogan? For example:
 - Hometown by the Sea
 - Town with a Heart
 - Other_____

February –March

- ❖ Send out and receive survey results

March

- ❖ Begin reviewing survey results

April – July

- ❖ Quantify survey results and determine cost estimates for execution
- ❖ Prepare a Request for Proposals for firms to do redevelopment plan & hire firm
- ❖ Review Town Charrette to determine what concepts could be utilized
- ❖ Hire branding firm (if survey results indicate a brand is desired)

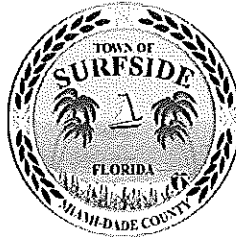
July –October

- ❖ Workshops with stakeholders (i.e. merchants, business owners, etc.)
- ❖ Formula retail analysis
- ❖ Complete redevelopment plan and determine cost before adoption of annual budget

November - January

- ❖ Present redevelopment plan to Planning and Zoning
- ❖ Present redevelopment plan to Commission
- ❖ Implement zoning changes

We hope the foregoing is helpful in beginning the discussion on this very important subject.



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Planning & Zoning Boardmembers
Design Review Boardmembers

FROM: Lynn M. Dannheisser, Town Attorney

cc: Town Commission
Tourist Bureau Committee
Gary Word, Town Manager
Paul Goia, Building Official
Duncan Tavares, Tourist Bureau Director

DATE: January 7, 2010

SUBJECT: BUSINESS DISTRICT REVITALIZATION EFFORT UPDATE

At the November 19, 2009 Planning & Zoning Board Meeting, we discussed a possible plan of action for the Revitalization of the Business District. The Board adopted that plan as set forth in my memorandum of November 19th. On December 15, 2009, the Town Planner, Town Manager, Chairman of the P & Z Board, Tourist Director and I met and laid out the course of action. This is intended as an update on action taken to date.

November – January

- ❖ **Code Enforcement** (i.e. real estate signs, signs and awnings in disrepair)
Town Manager advises: Code Enforcement – The Code Enforcement Officer is making a pass through the downtown area daily when on duty. A meeting with the Code Enforcement Officer and the Surfside Planning and Zoning Committee is scheduled in early winter to address enforcement standards and possible changes to the code.
- ❖ **Pressure clean sidewalks** Town Manager advises: Pressure Cleaning Sidewalks – Pressuring cleaning of downtown sidewalks began the third week of November. Focus is on areas with significant bird droppings. Cleaning will be done monthly.

- ❖ **Replace landscaping** Town Manager advises: Landscaping – New trash can tops were installed on trash containers in the downtown in November. Department of Public Works personnel will be cleaning the new tops twice each week. New landscaping, replacing over 90% of the pre-existing plantings, was installed at the SW corner of 95th Street and Collins in November. New mulch is installed in planting beds along Harding Avenue twice each year.
- ❖ Color Palette (i.e. choosing colors choices for façade improvements) **Deferred until Branding**
- ❖ Awning colors (i.e. choosing colors choices for new awnings)) **Deferred until Branding**
- ❖ Special event promotion (3rd Thursdays, etc.) **Continuing**
- ❖ Create better property maintenance standards (i.e., add things like: “every merchant, storekeeper or operator of a business in the city shall sweep or cause to be swept the sidewalks adjoining his respective place of business, and continuing as often as necessary thereafter to keep the area clean, on each day such business shall be operated. The sweepings shall be picked up and not swept into the gutter...”) **Ordinance created and due for discussion by P & Z January 7; first reading at Commission January 12.**
- ❖ **It was decided that we would hold a meeting with the stakeholders (property owners and merchants alike) to solicit their input and determine how much participation in these efforts we can expect from them. That meeting is being scheduled for February.**
- ❖ **It was decided that once the information is gathered, we should defer the Manager advises that...remaining items including a course of action until after the elections in March.**

Town of Surfside Committees as of 5-11-2010

Planning and Zoning Committee

Member 1 (Burkett) Peter Glynn	Member 1 (Dietch)	<u>Peter Glynn</u>
Member 2 (Weinberg) Jorge Gutierrez	Member 2 (Graubart)	_____
Member 3 (Calderon) Aram Brazilian	Member 3 (Karukin)	<u>Scarlet Tenen</u>
Member 4 (Imberman) Daniel Dietch	Member 4 (Kopelman)	<u>Sheldon Lisbon</u>
Member 5 (Levine) Richard Iacobacci	Member 5 (Olchyk)	<u>Armando Castellanos</u>
Liaison: E Calderon	Liaison:	_____

Design Review Board (*note same members as P&Z + *2 architect members)

Member 1 (Burkett) Peter Glynn	Propmasters@mac.com	
Member 2 (Weinberg) Jorge Gutierrez	jgutierrez@syalovski.com	
Member 3 (Calderon) Aram Brazilian	arammara@aol.com	
Member 4 (Imberman) Daniel Dietch	Daniel.Dietch@ch2m.com	
Member 5 (Levine) Richard Iacobacci	richardrcw@att.net	
Architect Member: Elizabeth Ogden	eogden@miamidade.gov	<u>Elizabeth Ogden</u>
Architect Member: Roberto Gambach, R.A. (11-10-09)	arkitects@aol.com	<u>Jorge Gutierrez</u>

Education Committee

Sunset 12-8-09

Personnel Appeals Board

Member 1 (Burkett) Linda Scarcell DeGrave	luckylinda@yahoo.com	Member 1 (Dietch)	_____
Member 2 (Weinberg) Brian Dooreck	bdooreck@aol.com	Member 2 (Graubart)	_____
Member 3 (Calderon) Tiffany Cannava		Member 3 (Karukin)	_____
Member 4 (Imberman) Ruben Coto	rcoto@aol.com	Member 4 (Kopelman)	_____
Member 5 (Levine) Jay Abramowitz	jay@pearlbenefitsgroup.com	Member 5 (Olchyk)	_____
Liaison: C. Burkett		Liaison:	<u>Daniel Dietch</u>

Parks and Recreation Committee

Member 1 (Burkett) Vacant (formerly Carlos Rosa)		Member 1 (Dietch)	_____
Member 2 (Weinberg) Christy Rautbord	christyrautbord@bellsouth.net	Member 2 (Graubart)	_____
Member 3 (Calderon) Andrew Craven	acraven@mltrial.com	Member 3 (Karukin)	_____
Member 4 (Imberman) Rick Zambrano	rzmoney@aol.com	Member 4 (Kopelman)	_____
Member 5 (Levine) Rasciel Socarras	docraz@yahoo.com	Member 5 (Olchyk)	_____
Liaison: H. Weinberg		Liaison:	<u>Edward Kopelman</u>

Pension Board

Member 1 (*resident appointed by Commission) Stan Bershad	stanbershad@earthlink.com	*	_____
Member 2 (resident appointed by Commission) Michael Feldman, Chairman	mike@feldmanattorney.com	*	_____
Town Mngr – Gary Word			
Employee Rep – Yamileth Slate-McCloud			
Police Rep – Julio Torres			

Tourist Bureau

Member 1 (Burkett) Barbara Cohen louandbarbara1@netzero.com Member 1 (Dietch) _____
Member 2 (Weinberg) Eric Bogart ericbogard@aol.com Member 2 (Graubart) _____
Member 3 (Calderon) Elaine Killeen Member 3 (Karukin) _____
Member 4 (Imberman) Barbara McLaughlin Member 4 (Kopelman) _____
Member 5 (Levine) Eli Tourgeman eli.tourgeman@us.hsbc.com Member 5 (Olchyk) _____
Liaison: S Levine Liaison: Michael Karukin

Beautification Committee

Member 1 (Burkett) Jennifer Brilliant Jennifer.brilliant@yahoo.com Member 1 (Dietch) _____
Member 2 (Weinberg) David Steinfeld David.Steinfeld@cbre.com Member 2 (Graubart) _____
Member 3 (Calderon) Tina Gaber Member 3 (Karukin) _____
Member 4 (Imberman) Randall Rubin rubins2000@aol.com Member 4 (Kopelman) _____
Member 5 (Levine) Adrienne D’Annunzio Member 5 (Olchyk) _____
Liaison: M Imberman Liaison: _____

Police Officers Pension Trust Fund

Member 1 (Resident) Ted Arboleda Member 1 (Resident) _____
Member 2 (Resident) John Gentile Member 2 (Resident) _____
Member 3 (PD Elected) Joe Matthews
Member 4 (PD Elected) Roberto Silvagni
Member 5 (PD Elected) Julio Yero

75th Anniversary Committee

Member 1 (Burkett) Ricardo Mualin Ricardo.mualin@alz.org Member 1 (Dietch) _____
Member 2 (Weinberg) Anthony Blate anthonyblate@aol.com Member 2 (Graubart) _____
Member 3 (Calderon)Randy Rubin rubins2000@aol.com Member 3 (Karukin) _____
Member 4 (Imberman) Dana Kulvin mrbones@the-beach.net Member 4 (Kopelman) _____
Member 5 (Levine)Joseph Graubart Joe.graubart@gmail.com Member 5 (Olchyk) _____
Honorary Member: Seth Bramson smbramson@bellsouth.net Honorary Member: _____
Liaison: S Levine Liaison: _____

Charter Review Board

Member 1 (Burkett) Marta Olchyk olchykom@aol.com
Member 2 (Weinberg) Ken Arnold kayeoz@gmail.com
Member 3 (Calderon) Lou Cohen loubar1008@gmail.com
Member 4 (Imberman) Michael Karukin mkarukin@yahoo.com
Member 5 (Levine) Shoshana Feingold-Studnik, PhD shoshana@semiami.com
Liaison: None

Green Committee - Inactive

Here is the Discussion/Agenda item:

Title: Code Enforcement Prosecution – FEMA - Novack

Objective: To discuss the FEMA agenda item(s) as proposed/requested by Mayor and myself, at the last month's Commission Meeting (May). The Mayor requested more information regarding the FEMA violations – RE: Novack. Determine nature of: "Civil Violation Notice" - 'prosecution' – etc. This has been provided and is in each Commissioners (and Mayor) agenda packet.

Consideration: Mayor Dietch and Vice Mayor Graubart requested this discussion (see DVD or minutes of meeting). Please see my Memo...that is also in you packet towards the very end.

Best regards,



Joseph 'Joe' Graubart

Vice-Mayor

Town of Surfside

9293 Harding Ave

Surfside, FL 33154

(305) 861-4863

Email: JGraubart@townofsurfsidefl.gov

www.townofsurfsidefl.gov

MEMO- Cover Sheet

9H

Dear Mayor and fellow Commissioners:

At our last Comm. meeting, we discussed agenda item: FEMA related ordinances and the Town's improper allegations against a particular property (the home of former Mayor Novack & family). Mayor Dietch asked (me) for more information so that the Commission could take appropriate action about a very unfortunate period of time in our Town's history. Being new 'officials' you may not be fully aware that it is quite apparent that some members of the former Town Commission pursued a witch-hunt against a former Mayor and his family – and in doing so – pushed a false allegation into becoming a wrongful code enforcement prosecution. The town issued a "Notice of Violation" even though there was no violation according to the Town's building officials and code enforcement officers.

The Town forced a fine family to endure being harassed legally and politically. I believe the Town published false and disgraceful lies in the Town Gazette and through letters and statements to the press.

I am attaching the bills/invoices that I referred to at the last meeting – showing that all along this was selective prosecution – based upon lies that had a great cost to the Town both in terms of its integrity and its public funds which were wasted in this abusive action (witch-hunt). I think, allege and believe the Town spent/wasted thousands of dollars in legal and consulting fees!

Therefore, the Town through its (our) Commission needs to do whatever it can to rectify the wrongs done on the matter.

Respectfully,

Joe Graubart, Vice Mayor

Attachments

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.
ATTORNEYS AT LAW

A PROFESSIONAL LIMITED LIABILITY COMPANY
INCLUDING PROFESSIONAL ASSOCIATIONS

MIAMI-DADE OFFICE
2525 PONCE DE LEON BOULEVARD
SUITE 700
CORAL GABLES, FLORIDA 33134

TELEPHONE 305-854-0800
FACSIMILE 305-854-2323
WWW.WSH-LAW.COM

BROWARD OFFICE
200 EAST BROWARD BOULEVARD • SUITE 1900
FORT LAUDERDALE, FLORIDA 33301
TELEPHONE 954-763-4242 • FACSIMILE 954-764-7770

*OF COUNSEL

RAQUEL ELEJABARRIETA
CHAD S. FRIEDMAN
JOHN J. KENDRICK III
HARLENE SILVERN KENNEDY
KAREN LIEBERMAN*
JOHANNA M. LUNDGREN
ANDREW W. MAI
PAMI HAUGHAM
ALEXANDER L. PALENZUELA-MAURI*
JOHN J. QUICK
ANTHONY L. RECIO
SCOTT A. ROBIN
GAIL D. SEROTA*
JONATHAN C. SHAMRES
ESTRELLITA S. SIBILA
EDUARDO M. SOTO
FLETA A. STAMEN
MICHAEL L. STINES
NANCY STUPARICH*
STEVEN E. TAYLOR
PAUL S. VICARY
LAURA K. WENDELL*
JAMES E. WHITE

MITCHELL BIERMAN, P.A.
NINA L. BONISKE, P.A.
MITCHELL J. BUPNSTEIN, P.A.
JAMIE ALAN COLE, P.A.
STEPHEN J. HELFMAN, P.A.
GILBERTO PASTORIZA, P.A.
MICHAEL S. POPOK, P.A.
JOSEPH H. SEROTA, P.A.
SUSAN L. TREVARTHEN, P.A.
RICHARD JAY WEISS, P.A.
DAVID M. WOLPIN, P.A.

DANIEL L. ABBOTT
LYNN M. DANNHEISSER
IGNACIO G. DEL VALLE
ALAN L. GABRIEL
DOUGLAS R. GONZALES
MATTHEW H. MANDEL
BRETT J. SCHNEIDER

MELISSA P. ANDERSON*
LILLIAN ARANGO DE LA HOZ*
JEFF P.H. CAZEAU

January 4, 2008

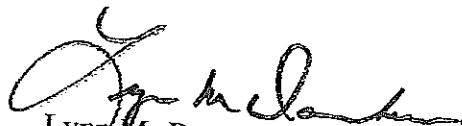
Ms. Pam Brangaccio
Interim Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

Dear Ms. Brangaccio:

Enclosed you will find invoices for services rendered during the period November 16 through December 15, 2007. Please do not hesitate to contact me should you have any questions.

As always, thank you for your continued confidence in our Firm.

Sincerely,


Lynn M. Dannheisser



RECEIVED
1/15/08

jjj
Enclosure

OK
PDB 1/6/08

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.L.
2525 Ponce de Leon Boulevard
Suite 700
Coral Gables, Florida 33134
Telephone: 305-854-0800
Telecopier: 305-854-2323

December 15 2007
Town of Surfside, Florida
9295 Harding Ave.ue
Surfside, FL 33154

INVOICE

Matter ID: 286053
Surfside\FEMA Violations

Invoice # 93451
Federal ID # 20-8112403

For Professional Services Rendered:

11/01/2007	bab	Research And Analyze Case Law Re City Reassessment Of Tax For Misrepresentation Of Value Of Home Improvements	1.40 hr	\$293.24
11/16/2007	lmd	Review Response To Public Records Request	0.30 hr	\$62.84
11/26/2007	jpc	Draft Correspondence to Town Clerk Regarding Response To Public Records Request	0.20 hr	\$41.89
12/03/2007	jpc	Novack Public Records Correspondence To Clerk	0.20 hr	\$41.89
12/04/2007	lmd	Telephone Conference With Mr. Schlessler; Follow Up	0.30 hr	\$62.84
12/07/2007	jpc	Conference With Ms. Huber Regarding Novack Public Records Request	0.40 hr	\$83.78
12/07/2007	lmd	Prepare For, Travel to And Attend Meetings With Messrs. Blumstein, Levine And Higginbotham Regarding FEMA Issues; Subsequent Meeting With Building Official And Ms. Sinatra	2.20 hr	\$460.81
12/10/2007	alp	Gather Facts Regarding Violation (Novack)	0.70 hr	\$146.62
12/10/2007	alp	Confer Regarding Strategy	0.20 hr	\$41.89
12/10/2007	alp	Draft Memorandum Regarding Violation	0.50 hr	\$104.73
12/10/2007	lmd	Attend Meetings With Messrs. Imberman, Burkett And Weinberg Regarding Status Of Open Permits And Other FEMA Related Issues; Meeting With Ms. Sinatra And Mr. Bruhn Regarding Same; Conference With Building Official Regarding Approach To FEMA And Their Response	5.50 hr	\$1,152.03
12/10/2007	jpc	Review And Analyze Letter From Ms. Huber	0.20 hr	\$41.89
12/10/2007	jpc	Conference Re Procedure For Cancelling Citation Against Novack Property	0.40 hr	\$83.78
12/11/2007	jpc	Review And Analyze Correspondence From Ms. Huber Regarding Public Record Request	0.40 hr	\$83.78
12/11/2007	jpc	Correspondence To Town Manager Regarding Town's Responsiveness To Public Record Request	0.60 hr	\$125.68
12/11/2007	jpc	Research Regarding Selective Enforcement Of Town Codes	1.60 hr	\$335.14
12/11/2007	jpc	Draft Memorandum Of Law Regarding Town Exposure If It Chooses To Prosecute Novack Case While Not Prosecuting Other Cases	1.40 hr	\$293.24
12/11/2007	jpc	Additional Research Regarding Town's Liability For Choosing Not To Prosecute Certain Cases	0.80 hr	\$167.57

As it is difficult to read the entries from previous page, please see

Reproduced below:

From Page 2

Invoice # 93451 Surfside/FEMA Violations

12/11/2007 jpc Research Regarding Selective Enforcement Of Town Codes

1.6hr. \$335.14

12/11/2007 jpc Draft Memorandum Of Law Regarding Town Exposure If It
Chooses To Prosecute Novack Case While Not Prosecuting Other Cases

1.40hr \$293.24

12/11/2007 jpc Additional Research Regarding Town's Liability For Choosing
Not To Prosecute Certain Cases

0.80hr \$167.57

WEISS SEROTA HELFMAN
 PASTORIZA COLE & BONISKE, P.L.
 2525 Ponce de Leon Boulevard
 Suite 700
 Coral Gables, Florida 33134
 Telephone: 305-854-0800
 Telecopier: 305-854-2323

THIS INVOICE CONTAINS
 INFORMATION THAT IS UNLAWFUL
 TO DISCLOSE OR TO BE RELEASED
 TO THE PUBLIC

April 30, 2007
 Town of Surfside, Florida
 9293 Harding Avenue
 Surfside, FL 33154

INVOICE

1308 BISCAYA DR.
 (NOVACK RESIDENCE)

Matter ID: 286050
 Surfside\Code Enforcement-General

Invoice # 88514
 Federal ID # 65-0254147

Professional Services Rendered:

Date	Initials	Description	Hours	Amount
04/06/2007	Imd	Follow Up With Requests Of Mr. Weinberg Regarding 1308 Viscaya	0.30 hr	\$60.42
04/10/2007	alp	Review And Analyze Proposed Revisions To Code Compliance Ordinance	0.50 hr	\$100.70
04/18/2007	Imd	Review List Of Special Masters	0.30 hr	\$60.42
04/19/2007	Imd	Review Code Enforcement Civil Notice Violation And Prepare Correspondence To Mr. Garcia And Mr. Weinberg Regarding Same	0.80 hr	\$161.12
04/23/2007	Imd	Continue Discussion With Potential Special Master; Review Of Resumes	0.30 hr	\$60.42
04/30/2007	Imd	Secure Addition Special Master Recommendations For Town Manager	0.50 hr	\$100.70
Total Professional Services:				\$543.78

INVOICE SUMMARY

For Professional Services: 2.70 Hours \$543.78
 New Charges this Invoice: \$543.78

Previous Balance: \$1,389.66
 Less Payment and Credits Received: \$0.00
 Outstanding Balance: \$1,389.66
 Plus New Charges this Invoice: \$543.78
 Total Due: \$1,933.44
 Balance in Trust: \$0.00
 Balance in Retainer: \$0.00

[Handwritten signature]

WEISS SEROTA HELFMAN
PASTORIZA COLE & BONISKE, P.A.
2525 Ponce de Leon Boulevard
Suite 700
Coral Gables, Florida 33134
Telephone: 305-854-0800
Telecopier: 305-854-2323

THIS DOCUMENT CONTAINS INFORMATION FROM PUBLIC RECORDS. CONTACT US PRIOR TO REPRODUCTION OR DISCLOSURE.

January 31, 2007
Town of Surfside, Florida
9293 Harding Avenue
Surfside, FL 33154

Matter ID: 286053
Surfside\FEMA Violations

Invoice # 86610

Federal ID # 65-0254147

Professional Services Rendered:

1/02/2007	awm	Review Materials From Ethics Commission Regarding 1308 Biscayne Drive	0.60 hr	\$120.84
1/02/2007	awm	Draft Correspondence Regarding Possible Code Violations Related to Actions Related To Biscayne Bay Property	1.80 hr	\$362.52
1/02/2007	awm	Research Town Code For Provisions Violated For Actions Taken Related To The Biscayne Bay Property; Review State Law Misdemeanor Provisions Related To Town Code Provisions	3.70 hr	\$745.18
1/02/2007	Imd	Respond To Correspondence Re Research Re Code Violations; Review And Prepare Correspondence Re Results Of Research	0.80 hr	\$161.12
1/03/2007	Imd	Telephone Conference With Mr. Weinberg Re Pursuit Of FEMA Claim; Correspondence Re Same	0.30 hr	\$60.42
1/04/2007	Imd	Analysis Of Best Means To Proceed And Telephone Conference With Manager Re Same As well As Necessary Experts To Prove Case	0.60 hr	\$120.84
1/10/2007	Imd	Telephone Conference With Manager And Mr. Munoz Re Code Enforcement Demand Of Mayor Novack; Subsequent Telephone Conference With Vice Mayor Weinberg Re Same	0.60 hr	\$120.84
1/11/2007	Imd	Conferences Re Elements Of Proof Necessary For Prosecution; Telephone Conference With Commissioner Weinberg	1.70 hr	\$342.38
1/11/2007	msp	Research Regarding FEMA Claim Against Former Mayor And Analysis Of Possible Code Violation Issues	2.20 hr	\$443.08
1/11/2007	alp	Confer Regarding Alleged Violation Of Flood Plain Regulations	0.40 hr	\$80.56
1/25/2007	Imd	Receipt Review And Response To Email Re Memo; Telephone Conference With H Weinberg Re Same	0.40 hr	\$80.56

Total Professional Services: \$2,638.34

INVOICE SUMMARY

For Professional Services: 13.10 Hours \$2,638.34
Total this Invoice: \$2,638.34

[Handwritten Signature]

001-1500-514-31-02

INVOICE NUMBER 10	INV-DAT VOUCHER DE (000)000-0000 03/09/2007 117833 FEMA VIOLATIONS	PO-NO	ACCOUNT NUMBER 00115005143102	AMOUNT 2,638.34
NON-NEGOTIABLE				
ISS. SEROTA, HELFMAN, PASTORIZA, 1067				*****42,421.90



TOWN OF SURFSIDE
 9293 HARDING AVENUE • SURFSIDE, FLORIDA 33154
 TOWN OF SURFSIDE • GENERAL FUND

69-60/660
 070925

FORTY TWO THOUSAND FOUR HUNDRED TWENTY ONE AND 90/100 DOLLARS

SUNTRUST
 SunTrust Bank, Miami, N.A.
 Bal Harbour 599
 Miami Beach, Florida

DATE	CHECK NO	AMOUNT
03/09/2007	70925	*****42,421.90

PAY TO THE ORDER OF
 WEISS, SEROTA, HELFMAN,
 GUEDES COLE & BONISKE, P.A.
 2645 SOUTH BAYSHORE DRIVE
 SUITE 420
 MIAMI FL 33133

NON-NEGOTIABLE

TOWN MANAGER

⑆070925⑆ ⑆06600604⑆ 0599000290064⑆

OCT 7, 2007

MIAMI HERALD

than 40 years, and I own a business of Miami Beach. This area has always been very special to us. We have seen much change over these years, and have always cared about both the community and the leadership which affects our quality of life.

Clearly, Paul Novack was the finest, most dedicated, effective and honorable leader the area has had in my lifetime. He served the area's residents with true distinction. For good reason, he was elected six times, for a total of 12 years as mayor.

His good deeds were not restricted only to this area, but also to people in other nations as well. People in the Dominican Republic, Honduras and Haiti were directly aided by his caring and concern, and his work was recognized by governments and organizations in Canada and Israel, as well as in The Miami Herald (in a Nov. 11, 1998 column by Liz Balmaseda entitled "Giving for pure humanity.")

With Novack's leadership, Surfside became a wonderful place for families to live, enjoy and prosper. It became a model community. New residents moved in, property values went up, and Surfside served as a great example.

How quickly we forget. The politics in Surfside today seems more concerned with Novack's home than accomplishing anything else. Smear campaigns and selective outright ridiculous claims concerning his renovation project and some vague elevation code seem to be the main focus today.

Mr. Novack is Surfside's most admired former leader and politics cannot change the facts of history.

Novack deserves better. ... Surfside deserves better!

DAN SALZVERG
MIAMI

→ **SURFSIDE
NOVACK A VICTIM
OF SMEAR CAMPAIGN**

My family and I have been residents and business owners in the Miami Beach and Surfside area for more

**DMING
EON,
A.C.S.
VFF**

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TRADES
FTER HEALTHCARE™

roping e facility

divisive issue for the entire city. It is one way for Mount Sinai to get some money back against what they paid to purchase Miami Heart. It is another way for the adjacent homeowners to avoid the traffic that a full service hospital or condo development would generate. Ideally, it would be a "state of the art" ALF. It also would give Mount Sinai the opportunity to participate in the development of a feeder facility.

We want to have an assisted living facility in our area. Senior citizens would not add many additional cars to our streets or add additional students to our already overburdened schools. Most importantly, it would allow the residents who have lived here and raised their families here, to remain close to their loved ones.

I urge everyone associated with this issue to take a deep breath and work together to achieve a settlement that does not threaten litigation. Everyone will be better off if the issue is resolved amicably.

**ROSEMARY HOFFMAN
HANSFORD**
president, La Gorce/
Pinetree
Homeowners Association

SOAPBOX: EXPRESS YOURSELF

For additional discussions, visit the online Soapbox forum - to get there, go to MiamiHerald.com/news, then click on Miami-Dade Neighbors.

To submit your letter for print, e-mail jmurphy@MiamiHerald.com, or write Soapbox, c/o Neighbors, One Herald Plaza, Miami, FL 33132. Fax: 305-376-5287.

- Letters must address a specific LOCAL issue, and must be signed with a name, city or neighborhood, as well as a telephone number for verification purposes.
- Letters for print should be no more than 350 words, and writers are limited to one print letter every four weeks. Letters that are longer than 350 words will be edited according to space.
- Letters will run as space allows, and may be edited for length, style and clarity.

The deadline for letters is noon Wednesday.

divert attention away from the record of his own lackluster term, with so many unfilled campaign promises.

Once again, certain politicians want to exploit the same old lies about former Mayor Paul Novack's house for blatant political purposes as a means of [drawing] attention away from themselves. Clearly, they are not examining under a microscope every home renovation project completed during the past decade in Surfside. They are selectively targeting Novack because of his effective public service. His detractors serve only their own personal vendettas and interests, as they are now attempting to do with me.

Novack achieved so many positive results for Surfside and neighboring communi-

ties, including a new Miami Beach Senior High School! He retired from office almost four years ago, but for some reason jealousy against him keeps the sorry attacks going. He did nothing wrong and they know it. The fact that his home renovations ended up costing more than initially anticipated puts his house in exactly the same situation as countless others, none of whom were in any kind of violation at all.

FEMA's "50 percent rule" is about demolishing a home or raising the elevation of the home if owners know in advance they are going to spend over half of its value during renovations. During my four years on the Planning and Zoning Board, I reviewed about 200 home renovations both simple and extensive; NOT ONE fell under this rule. And, I'll guarantee that under this administration's board it will also be extremely rare, if at all.

Town officials know that building officials have found no such violation, not on the part of Mr. Novack or anyone else. The new mayor and his allies have instigated accusations and thrown mud around as just more dirty politics. Building officials did reviews, inspections and calculations on every single project submitted. Homes have dramatically increased in value, and costs of renovation have increased. No surprise!

They want to insult former officials, and now they want to insult me, too, a Surfside resident for over 50 years. It's a pathetic diversionary tactic. They should stop their ridiculous smear campaigns. We must focus on what is going on at Surfside Town Hall today. We need to see through their smoke screens and distractions.

When they campaigned two years ago, they made promises about the community center, but they have done nothing other than

close the pool.

They promised to cut the budget, but they passed the largest budget in town history. They promised to reduce the town's legal fees, but under the new administration they have spent more on lawyers than ever before.

They promised to unite the town, but they have done everything possible to divide the town and to use town resources and publications to mislead residents.

The new mayor simply hopes to escape from the facts. Enough is enough. The distortions and smears are designed to divert attention away from the new mayor. Let's demand better from our town-officials, or change them out at the first opportunity we get.

JOSEPH GRAUBART
Surfside

SURFSIDE LET'S LOOK AHEAD, NOT BACK

In response to the Sept. 16 Neighbors article on Surfside, we hope this letter can serve as a reminder to Surfside elected leaders: we, as a community, elected you because you promised change. You believed our town wasn't moving forward and we trusted you to take it in the right direction. Now you're looking backward with what appears to be a personal grudge against a former mayor.

We remind you that there is so much to be done to achieve a better Surfside, the town we all want to live in. Don't waste precious time and resources on an inconsequential issue when you have the opportunity to make this town fabulous: a useful and beautiful community center, updated walking and bicycling paths, a neighborhood pool, pocket parks with access to the water for kayakers, a thriving downtown business district.

Let's make Surfside the place we want to live in, not a place of petty fighting and



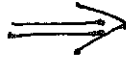
SURFSIDE BURKETT, OTHERS FAILED TO DELIVER

Neighbors recently reported on a Surfside Town Commission meeting where certain Surfside politicians used smear tactics against former officials. Then on Sept. 9, Mayor Charles Burkett wrote a letter further distorting matters about the town before his election, and about me. It was obviously an effort to

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I'm an ex-Brit and, terrifyingly, she reminds me of Margaret Thatcher, the most loathsome British politician until Tony Blair arrived and became Bush's appendage), to read of the hope that Obama brings definitely sways me. Hillary, as one friend put it, might be a good president because she looks as though she would kill and/or eat anyone who opposed her. But I think I'm tending toward a rather more compassionate presidency after the horrors of the past almost-eight years, so Obama is probably The One. And he kinda has that Springsteen touch that Hood alluded to.

Yours,
Alexander Chow-Stuart
Los Angeles



McCarthyism Is Alive and Well in Surfside

The same old lies about former Mayor Paul Novack's house are being circulated again for obvious and blatant political purposes [News, "Witch Hunt?," published Aug. 16]. Sad how soiled are the motivations and tactics involved. Simply, a "Witch Hunt" indeed!

Are they examining under a microscope every home renovation project in Surfside over the last decade, or are they focused on Mayor Novack because of his persistent and effective service in the public interest, while his detractors serve only special interests and their own personal and political interests?

As most Surfsiders know, and Miami Beach residents in particular should know and recognize, the fact is that the new high school being built would NOT have happened without former Mayor Novack's hard work and diligent efforts in exposing the dangers of the existing one and leading the charge for a new state-of-the-art school for everyone's benefit.

The man has been retired from office for almost four years now, but for some odd and clearly unjustified reason the jealousy against him and his outstanding reputation keeps the sorry attacks alive. He did nothing wrong and they know it. The fact that his home renovations ended up costing more than initially anticipated puts his house in the exact same situation as countless others, none of whom were in any kind of violation at all.

Despite all their merit-less complaints, there was indeed no wrongdoing on the part of Mr. Novack. That cannot be said for those who continue with their McCarthy-like smear campaign.

The so-called 50 percent rule is designed to have homeowners demolish the home or raise the

elevation of the entire home if they know they are going to spend over 50 percent of its value during upcoming renovations. During my four years on the planning and zoning board, and having reviewed about 200 home renovations both simple and extensive ... NOT ONE fell under this rule. The current town administration's own planning and zoning board has not required anyone to raise the elevation of their homes. Current town officials know that building officials and experts have found no violation, not on the part of Mr. Novack or anyone else.

It is, however, clear to many of us why they try to use this tired old lie about him — it's nothing more than dirty politics, as observed by those in attendance at town meetings. With the market value of homes, it is almost impossible to reach this 50 percent threshold. Homes have dramatically increased in value, and costs of renovation have increased even during projects, bringing final costs higher than anyone, especially the homeowner, would have ever wanted them to be. Logically, if one knows that he or she is going to go over 50 percent, they would be doing themselves a BIG favor by demolishing and building new.

Why should I, or anyone, care that this dark period of American history known as McCarthyism has raised its ugly head here in Surfside? Why, "WHEN THEY CAME FOR ME THERE WAS NO ONE LEFT TO SPEAK OUT." That's why! We were supposed to have learned from the past by reading our history, so as not to repeat it. Sadly, some have not.

I therefore hope that the perpetrators of this absurd allegation focus on their own record in office and their failures, rather than continually using diversionary tactics in their hopes to distract us residents from all that they have NOT done since in office, and all that so many of us disdain that they have done while in office.

Respectfully,
Joseph Graubart
Surfside

The Difference Between Swinging and Adventuring: Essential Information for SKIN Correspondents

Hello Kris,

This is to express my discontentment of the blurb you wrote about the SKIN party [411, "Swingers and Sex Swings," published May 10]. I understand quite well the format of your column and your need to spice things up a bit. However, misrepresentation or misreporting does not constitute great journalism, but instead falls in the

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**Town of Surfside
Town Commission Meeting
June 8, 2010
7 p.m.**

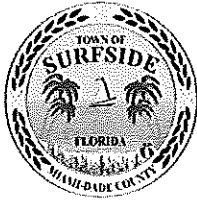
Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM
Ad-Hoc Website Committee**

Am Title: Ad-Hoc Website Committee

Objective: To discuss Commission interest in establishing an Ad-Hoc Website Committee to identify opportunities and make recommendations to improve the effectiveness of the Town Website as a communication tool.

Consideration: The Town Website is a valuable communications tool for our community. However, there are many opportunities to improve its functionality. Many residents have expressed ideas about potential improvements and some have volunteered to serve on a "special purpose" citizens committee focused on evaluating the current Website and making recommendations for improvements. If the Commission is agreeable, I'd also like to explore expanding the role of the committee to also evaluating Channel 77 for potential enhancements. This work will rely primarily on citizen volunteers and as such there is no immediate fiscal impact. The Commission can review the recommendations for future action.



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**DISCUSSION ITEM MEMORANDUM
Ad-Hoc Code Enforcement Committee**

Am Title: Ad-Hoc Code Enforcement Committee

Objective: To discuss Commission interest in establishing an Ad-Hoc Code Enforcement Committee to review our current code enforcement program and identify opportunities and make recommendations to improve the structure and effectiveness of the program. It is envisioned that the committee would work cooperatively with the Planning and Zoning Board to identify program improvement recommendations, which would then be considered by the Commission to establish policy.

Consideration: Effective code enforcement is fundamental to maintaining minimum aesthetic standards and a safe community. However, uniform code enforcement has been adversely impacted by inconsistent policy over the past few years. We recently enacted legislation that provides a 120 day “amnesty” period to allow code violations to be rectified without the imposition of penalties. The exception to this “amnesty” period relates to life-safety violations.

While Town resources are limited, an effective code enforcement program is possible, but it requires clear Commission policy. With the “amnesty” period, this Commission has the responsibility to review the current code for applicability and clarity and be prepared to implement a code enforcement program that reflects the communities’ sensibilities, is presented in “plain English”, and has an enforcement component that is vetted publically and is enforced consistently.